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Part I

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



JOHN R. ASHCROFT
SECRETARY OF STATE

MISSOURI REGISTER

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November 1, 2018 November 15, 2018	December 3, 2018 December 17, 2018	December 31, 2018 December 31, 2018	January 30, 2019 January 30, 2019
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February 1, 2019 February 15, 2019	March 1, 2019 March 15, 2019	March 31, 2019 March 31, 2019	April 30, 2019 April 30, 2019

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

The rules are codified in the *Code of State Regulations* in this system–

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	<i>Code of State Regulations</i>	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2016. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS Division 30—Division of Labor Standards Chapter 3—Prevailing Wage Law Rules

EMERGENCY AMENDMENT

8 CSR 30-3.010 [Prevailing] Applicable Wage Rates for Public Works Projects. The division proposes to amend sections (1), (2), (4), and (5); renumber a portion of section (4) as section (5) and amend the section; and renumber the remaining sections.

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the Missouri Prevailing Wage Law effected by House Bill 1729 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to sections 290.210–290.340, RSMo made by House Bill 1729 (2018) regarding the applicable wage rates for public works within the state of Missouri and ensuring consistent implementation of law. Provisions of the existing rule are inconsistent with the provisions of sections 290.210–290.340, RSMo, effective August 28, 2018, and must be amended early to avoid confusion on the part of contractors, workers, and public entities. Emergency amendment of the rule

will also assist contractors in avoiding potential civil liabilities and assist officers, officials, members, agents, and representatives of contractors and public entities in avoiding potential criminal penalties. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Labor and Industrial Relations believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 21, 2018, becomes effective December 1, 2018, and expires May 29, 2019.

PURPOSE: This rule sets forth [prevailing] applicable wage requirements relative to work performed by workers on public funded projects.

(1) All public bodies of Missouri contemplating construction work must obtain from the department an annual wage order which sets forth the [prevailing] applicable hourly rate of wages (the prevailing wage or the public works contracting minimum wage as provided in section 290.257, RSMo) in the locality. The rates so determined shall be incorporated in the contract specifications and made a part of those specifications, except that construction contracts of the State Highway and Transportation Commission need not list specific wage rates to apply, but may refer to the wage rates contained in the appropriate General Wage Orders issued by the department, as applicable.

(2) Request for annual wage orders shall be initiated at least ten (10) calendar days before advertisement of the specifications for the contract for which the determination is sought. An exception from this provision will be made by the department only upon a proper showing of extenuating circumstances. The department has prepared and printed Form No. PW-3 for use in making a request. The form may be secured by writing Division of Labor Standards, PO Box 449, Jefferson City, MO 65102 or by visiting the following website: https://labor.mo.gov/sites/labor/files/pubs_forms/PW-3-AI.pdf.

(4) The annual wage order issued by the department contains the current applicable wage rates [prevailing] in the locality at the time the annual wage order is issued. Hours worked during the calendar year are used to set the prevailing wage rates in the annual wage order issued in March of the following year. The department will consider hours submitted for use in its initial determination of the prevailing wage rates to be included in a particular year's wage order only if those hours are received [by it] from a contractor, by either paper submission on a form provided by the department or in electronic format, no later than January 31 of that year. Handwritten submissions will not be accepted. For purposes of submitting reportable hours, the term "contractor" shall include a "subcontractor." The department will not include the following hours in the calculation of the annual wage order:

(A) Hours not readily identifiable as being submitted by a contractor;

(B) Hours submitted for construction of public works for which either the engineer's estimate or the bid accepted by the public body for the total project cost is in the amount of seventy-five thousand dollars (\$75,000) or less;

(C) Hours worked by federally-registered apprentices or entry-level workers;

(D) Hours worked on residential construction projects.

(5) Section 290.262.[9/8], RSMo, provides that the annual wage order for a particular occupational title may be altered once each year with an incremental increase. A public body shall specify in the call

for bids for each contract the *[prevailing]* applicable hourly rate of wages in the locality for each type of worker as set forth in the annual wage order or any replacement page(s) identifying the annual incremental increase issued by the department for the **prevailing hourly rate of wages**. The wage rates attached to, and made a part of, the call for bids for a contract shall remain in effect for the duration of that particular contract.

[(5)](6) It should be understood by all interested parties that the certified *[prevailing]* applicable wage rates determined by the department are minimum wage rates. The contractor may not pay less than the *[prevailing]* applicable wage rates determined by the department for the project or contract awarded to him/her as set forth in the proposal on which s/he submitted his/her bid. Employees are free to bargain for a higher rate of pay and employers are free to pay a higher rate of pay.

[(6)](7) Each month the successful bid contractors shall submit certified copies of their current payrolls to the contracting public body. The public body, upon receipt of the payrolls on a project, shall keep the payrolls on file for a period of one (1) year from the date of submission of the final payrolls by the contractor. The payroll records shall set out accurately and completely the following: name and address of each worker, the class or type of worker, rate of pay, daily and weekly number of hours worked for each class or type of work performed, deduction made, and actual wages paid for each class or type of work performed by each worker. The payroll records shall be available at all times for inspection by authorized representatives of the Department of Labor and Industrial Relations.

[(7)](8) The public body shall make examinations of the payrolls and other records of each contractor or subcontractor as may be necessary to assure compliance with the provisions of the law. In connection with those examinations, particular attention should be given to the correctness of classifications and any disproportionate employment of any workers. The examinations shall be of a frequency that may be necessary to assure conformity with the provisions of the law. An examination shall be made after the project has been substantially completed, but prior to the acceptance of the affidavit as required by section 290.290, RSMo. If any violation of sections 290.210–290.580, RSMo, is discovered by the inspecting public body, it is their duty under section 290.250, RSMo, to withhold and retain from payments to the contractor all sums and amounts due and owing as a result of any violation. Any violation shall be immediately reported to the Division of Labor Standards at PO Box 449, Jefferson City, MO 65102 or by telephone.

AUTHORITY: section 290.240.2, RSMo [2000] Supp. 2018. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 30—Division of Labor Standards

Chapter 3—Prevailing Wage Law Rules

EMERGENCY AMENDMENT

8 CSR 30-3.030 Apprentices and [Trainees] Entry-Level Workers. The division proposes to amend sections (1) and (2); rescind section (3); and renumber the remaining section.

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729

(2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the Missouri Prevailing Wage Law effected by House Bill 1729 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to sections 290.210–290.340, RSMo made by House Bill 1729 (2018) regarding the applicable wage rates for public works within the state of Missouri and ensuring consistent implementation of law. Provisions of the existing rule are inconsistent with the provisions of sections 290.210–290.340, RSMo, effective August 28, 2018, and must be amended early to avoid confusion on the part of contractors, workers, and public entities. Emergency amendment of the rule will also assist contractors in avoiding potential civil liabilities and assist officers, officials, members, agents, and representatives of contractors and public entities in avoiding potential criminal penalties. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Labor and Industrial Relations believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 21, 2018, becomes effective December 1, 2018, and expires May 29, 2019.

PURPOSE: This rule sets forth the requirements for the payment of apprentice and entry-level worker wages for [workers] those employed on public works subject to the Prevailing Wage Law.

(1) Journeymen's rate of pay shall be paid to all workers employed on public works construction except **entry-level workers or apprentices [and trainees]** registered and participating in apprentice [or trainee] programs registered with the United States Department of Labor, *[Bureau of Apprenticeship and Training]* **Employment and Training Administration**; and apprentices [and trainees] registered and participating in *[apprenticeship and skill training]* programs certified by the Secretary of the United States Department of Transportation as promoting equal opportunity in connection with federal-aid highway construction programs. **Such workers shall be paid not less than fifty percent (50%) of the applicable wage rate for a journeyman worker under the appropriate occupational title for a specific locality. In calculating the applicable wage rate for a journeyman worker, fringe benefits shall be included.**

(2) *[Apprentices shall be permitted to work at less than the predetermined rate for the class or type of work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The allowable ratio of apprenticeship to journeymen on the site of the construction for any class or type of workers shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on the payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this rule, shall be paid not less than the applicable wage rate on the wage determination for the class or type of work actually performed. In addition, those apprentices performing work on the site of the construction who are in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the class or type of work actually performed. Every apprentice shall be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate for the class or type of worker specified in*

the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices shall be paid the full amount of fringe benefits listed on the wage determination for the applicable class or type of work performed. In the event the Bureau of Apprenticeship and Training withdraws approval of an apprenticeship program, the contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the class or type of work performed until an acceptable program is approved.] As set forth in section 290.235, RSMo, "on-the-job training workers" are defined as follows:

(A) "Federally-registered apprentices" – Workers participating in programs administered by the United States Department of Labor and subject to their specific requirements (See 29 U.S.C. section 50 and 29 C.F.R. 29) and workers participating in programs administered by the United States Department of Transportation and subject to their specific requirements. (See 23 U.S.C. section 113 and 23 C.F.R. 230); and

(B) "Entry-level workers" – Any worker who is not a journeyman and who is not otherwise enrolled in a federally-registered apprenticeship program.

[(3) Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the United States Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the annual wage order for the applicable class or type of work performed. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the annual wage order for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.]

[(4)](3) Workers employed on federal-aid highway construction projects may be paid at an apprentice or trainee rate of pay if enrolled in an apprenticeship or skill training program which has been certified by the Secretary of the United States Department of Transportation pursuant to 23 U.S.C. 113. In the event the Secretary of Transportation withdraws approval of a program, the contractor will no longer be permitted to pay workers less than the applicable predetermined rate for the work performed until an acceptable program is approved.

AUTHORITY: section 290.240, RSMo [1994] Supp. 2018. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Emergency amendment filed

Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 30—Division of Labor Standards Chapter 3—Prevailing Wage Law Rules

EMERGENCY AMENDMENT

8 CSR 30-3.040 Classifications of Construction Work. The division proposes to amend section (1).

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the Missouri Prevailing Wage Law effected by House Bill 1729 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to sections 290.210–290.340, RSMo made by House Bill 1729 (2018) regarding the applicable wage rates for public works within the state of Missouri and ensuring consistent implementation of law. Provisions of the existing rule are inconsistent with the provisions of sections 290.210–290.340, RSMo, effective August 28, 2018, and must be amended early to avoid confusion on the part of contractors, workers, and public entities. Emergency amendment of the rule will also assist contractors in avoiding potential civil liabilities and assist officers, officials, members, agents, and representatives of contractors and public entities in avoiding potential criminal penalties. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Department of Labor and Industrial Relations believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 21, 2018, becomes effective December 1, 2018, and expires May 29, 2019.

(1) All public works construction, for which the prevailing hourly rate of wages or the public works contracting minimum wage of workers are to be determined, shall be classified as either—

AUTHORITY: section 290.240, RSMo [1994] Supp. 2018. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 30—Division of Labor Standards Chapter 3—Prevailing Wage Law Rules

EMERGENCY AMENDMENT

8 CSR 30-3.050 Posting of Prevailing Wage Rates. The division proposes to amend section (1).

PURPOSE: This amendment implements statutory changes to the

Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the Missouri Prevailing Wage Law effected by House Bill 1729 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to sections 290.210–290.340, RSMo made by House Bill 1729 (2018) regarding the applicable wage rates for public works within the state of Missouri and ensuring consistent implementation of law. Provisions of the existing rule are inconsistent with the provisions of sections 290.210–290.340, RSMo, effective August 28, 2018, and must be amended early to avoid confusion on the part of contractors, workers, and public entities. Emergency amendment of the rule will also assist contractors in avoiding potential civil liabilities and assist officers, officials, members, agents, and representatives of contractors and public entities in avoiding potential criminal penalties. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Labor and Industrial Relations believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 21, 2018, becomes effective December 1, 2018, and expires May 29, 2019.

(1) Contractors and subcontractors engaged in public works projects shall post the *[prevailing]* applicable hourly rate of wages (**the prevailing wage or the public works contracting minimum wage as provided in section 290.257, RSMo**) in a dry, accessible place within the field office at the site of the building or construction job. On public works projects for which no field office is needed or established, such as road construction, sewer lines, pipelines and the like, a contractor/subcontractor may post the *[periling]* applicable hourly rates of wages at the contractor/subcontractor's local office or batch plant, so long as the contractor/subcontractor provides a copy of the prevailing hourly wage rates to any worker upon request. *[Prevailing]* Applicable hourly wage rates must be posted and maintained in a clearly legible condition for the duration of the public works project as provided by law.

AUTHORITY: section 290.240, RSMo [1986] Supp. 2018. Original rule filed Aug. 24, 1990, effective April 29, 1991. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 30—Division of Labor Standards

Chapter 3—Prevailing Wage Law Rules

EMERGENCY AMENDMENT

8 CSR 30-3.060 Occupational Titles of Work Descriptions. The division proposes to rescind section (3) and renumber the remaining sections and amend sections (4), (7), and (8).

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the Missouri Prevailing Wage Law effected by House Bill 1729 (2018), effective August 28, 2018.

Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to sections 290.210–290.340, RSMo made by House Bill 1729 (2018) regarding the applicable wage rates for public works within the state of Missouri and ensuring consistent implementation of law. Provisions of the existing rule are inconsistent with the provisions of sections 290.210–290.340, RSMo, effective August 28, 2018, and must be amended early to avoid confusion on the part of contractors, workers, and public entities. Emergency amendment of the rule will also assist contractors in avoiding potential civil liabilities and assist officers, officials, members, agents, and representatives of contractors and public entities in avoiding potential criminal penalties. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Department of Labor and Industrial Relations believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 21, 2018, becomes effective December 1, 2018, and expires May 29, 2019.

[(3) Any person wishing to add, delete or modify an occupational title of work description shall submit to the director of the Division of Labor Standards a written request containing the proposed changes. Proposals shall contain the following information:

- (A) Occupational title;*
- (B) A description of the physical duties to be performed by workers under the title;*
- (C) A copy of any current collective bargaining agreements that are relevant to the proposal, if any;*
- (D) Evidence of hours worked and wages paid while performing work under the title, including fringe benefits paid, if any;*
- (E) Identification of the county(ies) where the work was performed;*
- (F) Evidence that the proposed occupational title of work description is for a type or class of work that is commonly utilized by the construction industry on building or heavy and highway construction projects in Missouri; and*
- (G) Other information concerning the proposed addition, deletion or modification as the director of the Division of Labor Standards may deem advisable under the circumstances.]*

[(4)](3) Interested parties who wish to submit wage information to be used in establishing the prevailing hourly rate of wages for a particular class or type of work are required to identify the work according to the applicable occupational title of work description set forth in this rule. Hours of work reported by a contractor or subcontractor to the department shall not be used to establish the prevailing hourly rate of wages if the party submitting the hours of work fails to identify the work under one of the recognized occupational titles [recognized by this rule].

[(5)](4) Any question as to the proper classification of work should be resolved before the work in question is commenced. Interested parties are encouraged to contact the Prevailing Wage Section of the Division of Labor Standards for an interpretation of these rules and for a determination of the appropriate occupational title of work description, relative to the class or type of work to be performed.

[(6)](5) The occupational titles and work descriptions for each type or class of work contained herein are valid throughout the entire state of Missouri. Through an objection to a wage order, an interested party may assert that any given description of work, as stated within this rule, does not apply to a specific occupational title(s) and that a

different work description should apply to that occupational title(s). The interested party shall have the burden of proving by a preponderance of the evidence the inapplicability of the description of work within that particular occupational title, but shall be afforded the opportunity to do so in a hearing on an objection to the wage order before the Labor and Industrial Relations Commission.

[(7)](6) Occupational titles of work descriptions may be obtained from the department by written request to the director of the Division of Labor Standards, PO Box 449, Jefferson City, MO 65102 or by visiting the following website: <https://labor.mo.gov/DLS/PrevailingWage/pwContractors>.

[(8)](7) The occupational titles of work descriptions set forth here are as follows:

(A) **Asbestos Worker/[Heat and Frost Insulator]**—Applies to workers who apply insulation materials to mechanical systems to reduce loss or absorption of heat, prevent moisture condensation, and to deaden sound and prevent vibration. The workers remove all insulation materials from mechanical systems unless the mechanical system is being scrapped. The work falling within this occupational title of work description includes:

1. The preparation, including the building of enclosures and hanging polyurethane, and physical distribution on the job site of asbestos, cork, plastic, magnesia or similar materials, or other materials used as a substitute, and used as thermal insulation. The manufacture, fabrication, assembling, molding, handling, erection, spraying, pouring, making, hanging, application, adjusting, alteration, repairing, dismantling, reconditioning, corrosion control, and testing of heat or frost insulation, such as asbestos, cork, mineral wall, infusorial earth, mercerized silk, flax, fiber, fire felt, asbestos paper, asbestos curtain, asbestos millboard, fibrous glass, foam glass, styrofoam, polyurethane, polystyrene, metals, plastics, fibrous matter, roving, and resins, and the erection of scaffolding up to fourteen feet (14'), working platform;

2. The covering, including encapsulation, of boilers, tanks, refrigeration units, evaporators, turbines, fittings, valves, ducts, flues, vats, equipment, hot and cold pipes, or any other hot or cold surfaces with the insulation materials listed in this rule, used for the purpose of thermal insulation, fire stoppage, fireproofing, radiator protection, sound deadeners, and the lagging (covering) on piping; and

3. The removal of all insulation materials from mechanical systems, unless the mechanical system is being scrapped, whether they contain asbestos or not (pipes, boilers, ducts, flues, breechings). All cleanup required in connection with this work, shall include the sealing, labeling, and dropping of scrap material into the appropriate containers. (After drop, final disposal is considered to be the class or type of work falling within the occupational title of work description for second semiskilled laborer.);

(B) **Boilermaker**—Applies to workers who assemble, erect, and repair boilers, tanks, vats, and pressure vessels according to blueprint specifications, using handtools, portable power tools, and equipment. The work falling within this occupational title of work description includes:

1. Locating and marking of reference points for columns on plates or foundations, using master straightedge, squares, transit, and measuring tape;

2. Using rigging or cranes to lift parts to specified positions;

3. Aligning structures or plate sections, using plumb bobs, levels, wedges, dogs, or turnbuckles;

4. Drilling, reaming, chipping, caulking, and grinding of structures and sections and bolting or welding them together;

5. Setting of drums and headers and installation of tubes;

6. Cleaning up as necessary in connection with this work; and

7. Riveting, acetylene burning, rigging, fitting-up, impact machine operating, unloading and handling of material and equipment where power equipment and rigging are required;

(C) **Bricklayers [and Stone Mason]**—Applies to workers who

prepare, lay, set, bed, point, patch, grout, caulk, cut, fit, plumb, align, level, anchor, bolt, or weld brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. Also, the workers install expansion joint materials in brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. The work falling within this occupational title of work description includes:

1. The unloading of brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry where power equipment and rigging are required;

2. The masonry paving and rip-rapping of all types, with or without mortar;

3. The reinforcing of masonry, including placing, tying, and setting of rods;

4. The application of insulation systems and materials, and air and/or vapor barrier systems and materials, by spray, trowel, roller, adhesive, or mechanically fastened in or to all masonry walls;

5. The caulking of abutting masonry openings in masonry walls, expansion joints, and false joints in all types of masonry;

6. The waterproofing of all types of masonry, which shall include installation and application of air and/or vapor barrier systems and materials by spray, trowel, roller, adhesive, or mechanically fastened; and

7. The cleaning, tuckpointing, sandblasting, steam cleaning, and Guniting work on all types of masonry;

(D) **Carpenter (which shall include pile driver, millwright, lather, and linoleum layer)**—Applies to workers who construct, erect, install, and repair structures, structural members and fixtures made of wood, plywood, wallboard, and materials that take the place of wood, such as plastic, metals, composites, fiberglass, and Transit sheeting and Cemesto Board, using carpenter hand tools and power tools. The work falling within this occupational title of work description includes:

1. General Carpenter.

[1./A.] The layout of buildings or structures on the site or plot. The installation of aluminum expansion joints for buildings and bridge structure as well as concrete strike-off machines;/.

[2./B.] The making and setting of all concrete forms (except curb forms on heavy construction), including establishment of building lines or flow lines (box culverts, bridges) including footing forms. The making of all forms used in tilt-up construction. The layout, installation, and construction for wall forms and footing forms, all block-outs, wood or steel, layout, and installation of all embedded items;/.

[3./C.] The building and handling of scaffolds used by carpenters to work from. All scaffolding, constructed or assembled, fourteen feet six inches (14'6") and higher for normal or specialty use—regardless of purpose;/.

[4./D.] The building of rough wooden structures, such as concrete forms, scaffolds, wooden bridges, trestles, coffer dams, tunnel and sewer support;/, welding and burning;/.

[5./E.] The selection of specified type of lumber or other materials. Prepare layout, using rule, framing square, and calipers. Mark cutting and assembling lines on materials, using pencil, chalk, and marking gauge. Shape materials to prescribed measurements, using saws, chisels, and planes. Assemble, cut, and shape materials and fasten them together with nails, dowel pins, or glue. Erect framework for structures. Verify trueness of structure with plumb bob and carpenter's level. Apply decorative paneling to walls;/.

[6./F.] The installation of ladders, handrails, walkways, platforms, and gangways made of wood as well as shoring and lagging. Install doors and wood and metal windows and bucks, including hardware (bucks are rough frames in which finished frames are inserted) in building framework and brace them with boards nailed to framework. Install pallet racks and metal shelving. Install sub-flooring in buildings. Install insulation such as batt, board, safin, thermal, styrofoam, sound attenuation, fiberglass when the installation of the insulation material is not being applied as an integral part

of the roofing system. Nail plaster grounds (wood or metal strips) to studding. Fit and nail sheathing on outer walls and roofs on buildings. Install beams and trusses of wood laminate/;.

[7./G. The making, handling, and setting of all frames, sash, blinds, trim, and other fixtures (for example, cabinets, bookcases, and benches), when made of wood or any wood substitute. The handling and assembly of chairs, seats, bleachers, and benches and other furniture in theaters, halls, schools, and other places of assemblage on floors of any kind. Install protection screens, chalk boards, toilet partitions (plastic laminate, solid plastic). Caulking of fixtures and countertops including Corian tub and shower enclosures/;.

[8./H. The installation of wood and metal studs and exterior panels/;.

[9./I. The handling, cutting, sawing, fitting of drywall (sheetrock), and lead-lined drywall whether for walls, ceilings, floors, soffits, or any use, no matter how installed—nailed, screwed, glued, or otherwise (interior, exterior). Lead-lined drywall is used in X rays to avoid radiation exposure. Install corner guards and wooden and plastic column covers/;.

[10./J. The handling and installation of acoustical and egg crate ceiling systems in its entirety (hanger wire, grid, molding, tile) whether vertically or horizontally installed/;.

[11./K. The installation of all builders hardware, including door tracks of every description. The installation of all weather strips. The making, fitting, and hanging of fly screens for doors, windows, and other openings/;.

[12./L. Installation of wood and hollow metal doors, rollup garage doors, overhead doors or rolling fire doors, automatic doors, channel iron door bucks, glass sliding, and bi-fold doors/; and/.

[13./M. The installation of access flooring, computer floors, and raised or elevated floors. Install modular headwall units and laboratory casework and fume hoods;

2. Pile Driver—The work falling within the occupational title of work description for pile driver includes:

A. The handling, layout, driving, cutting, and splicing of wood, metal, or concrete piling regardless of purpose (for example, sheets, I-beams, pile caps, and welding to piling);

B. The assembly, disassembly, and rigging of the pile driving equipment; and

C. The conduct of underwater diving that is incidental to pile driving work;

3. Millwright—Applies to workers who design, build, or repair mills or mill machinery; hoist, dismantle, erect, assemble, line, and adjust all machines used in the transmission of power in buildings, factories or elsewhere; unload machines used in the transmission of power in buildings, factories, or elsewhere, where power equipment and rigging are required. The work falling within this occupational title of work description includes: the setting of all classes of engines, direct drive motors, dynamos, turbines, generators, and air compressors and pumps. The assembling, setting, and packing of all compressors and pumps. The placing of all pulleys, sheaves, and fly wheels on the listed equipment. The making and setting of all templates and bolts for all machinery requiring same. Drypacking for sole plates. Installation of truck and railroad scales. Installation of trash compactors. Installation of all types of conveyors. The cutting and threading of all bolts. The handling and operating of all acetylene and devices for heating, welding, and cutting when used in connection with millwright work;

4. Lather—Applies to workers who erect horizontal metal framework to which laths are fastened, using nails, bolts, stud-gun, or a combination of these, drills holes in floor and ceiling, and drives ends of wooden or metal studs into holes to provide anchor for furring or rockboard laths. The occupational title of lather applies to workers who nail, clip, or fasten, all types of wood, wire, and metal laths, plasterboard, wallboard, rockboard, gypsum, sheetrock, and acoustical materials which take the place of same to walls, ceilings, and partitions of buildings to

provide supporting base for plaster, fireproofing, or acoustical material. The occupational title of work description for lather applies to workers who erect all metal plastering accessories which are covered or serve as ground, or both, guard, stock, or screed for plaster materials, including wire mesh. The work falling within the occupational title of work description includes:

A. The installing of carrying bars and purlins (pieces of horizontal timber), light iron, and metal furring (thin strips of wood or metal to create air space) of all descriptions, such as rods, channels, flat iron, T-bar, H-bar, and other ceiling bars or systems for the receipt of lath and board;

B. The wiring of plasterer channels to overhead structural framework to provide support for plaster or acoustical ceiling tile; and

C. The nailing of plaster grounds (wood or metal strips) to studding to provide a guide for those workers performing work falling within the occupational title of work description for plasterer;

5. Linoleum Layer —Applies to workers who measure, cut, sew, make-up and seam, tape, fit, lay, and install and seal and wax materials to be cemented, tacked, or otherwise applied to its base, wherever it may be. These materials may be used as shock-absorbing, sound-absorbing, or decorative coverings. With the exception of terrazzo, magnesite, and latex built-up floors, the materials include oil cloth, matting, linen, carpet, synthetic turf, linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastipave, tile, wood tile, interlocking and magnetic tile, chalk and bulletin board, nonslip or abrasive materials, resilient, decorative seamless surface coatings, monolithic coverings (monolithic shall mean all resilient seamless material such as epoxy, polyethylene, plastics and their derivatives, components and systems), and all other resilient coverings on floors, walls, counters, table tops, and ceilings. The work falling within the occupational title of work description includes:

A. The handling of materials at the point of installation;

B. The performing of all necessary preparation and finish work, such as sweeping, scraping, sanding, or chipping dirt and irregularities from base surfaces and filling cracks with putty, plaster, or cement grout to form smooth, clean foundations, drilling holes for sockets and pins;

C. The installing of underlayment, sanding and filling, fitting of metal edgings, metal corners, and caps and fitting devices for attachment of these materials;

D. The spreading of adhesive cement over floor to cement foundation material to the floor;

E. The laying of covering on cement; and

F. The rolling of finished floor to smooth it out and press cement into base and covering;

(E) Cement Mason (which shall include plasterer)—*[Applies to workers who perform work on concrete where finishing tools are used.]* The work falling within this occupational title of work description includes:

1. Cement Mason - Applies to workers who perform work on concrete where finishing tools are used.

[1./A. The setting of screeds, the rodding (buildings), shaping, smoothing, and finishing of the surfaces of freshly poured concrete floors, walls, sidewalks, curbs, steps, and stairways, the finishing of extruded barrier rails or any other concrete surface requiring finishing, using hand tools or power tools, including floats, trowels, screeds, and straightedge/;.

[2./B. The removing of rough or defective spots from concrete surfaces, using grinder or chisel and hammer and patching holes with fresh concrete or epoxy compound preparatory to sacking/;.

[3./C. The molding of expansion joints and edges, using edging tools, jointers, and straightedge/;.

[4./D. The application of penetrating sealer and primer protective coatings to concrete floors and steps when part of the finishing

process[;].

/5./E. The installation of seamless composition floors and the installation and finishing of epoxy-based coatings or polyester-based linings to all surfaces, when the coatings or linings are applied by spraying or troweling[;].

/6./F. The sandblasting or water blasting for architectural finish or preparatory to patching[;].

/7./G. The cutting of joints with concrete saw for the control of cracks in buildings and sidewalks, driveways, and curbs and gutters contiguous to buildings[; and].

/8./H. The setting of concrete curb, gutter, and sidewalk forms one (1) board high up to twelve inches (12");

2. Plasterer – Applies to workers who apply gypsum, Portland cement, stucco, imitation stone, and kindred materials and products to interior walls, ceilings, and partitions and to exterior walls of buildings, and finish those materials and products.

A. The spreading of plaster over laths, masonry, or any other base, using trowel, and smoothing the plaster with darby and float for uniform thickness;

B. The application of the various manufacturers' brand names of thin coat or plaster veneer;

C. The application of all bonding agents and mastic;

D. The roughing of undercoat with wire or metal scraper to provide bond for succeeding coat of plaster;

E. The application of all malleable plastic materials and epoxy materials;

F. The setting in place of plasterboard, insulation board, styrofoam and bead-board, ground, locks, patent dots, cork plates, brownstone and acoustical tile, fiberglass reinforcement and finished products;

G. The plastering of joints, nail holes, and bruises on wall-board;

H. The grouting and filling of door bucks, runners, and similar installations, in conjunction with plastering operations;

I. The application of scratchcoat, browncoat, and finish coat of plaster to wood, metal or board laths successively to all ceilings and walls when finished with terrazzo or tile, and the application of any plastic material to same;

J. The fireproofing of all building assemblies with plaster materials, sprayed fiberglass or similar materials, whether applied to gypsum, metal lath, or directly;

K. The application of crushed stone, marble, or ceramic chips and broken glass where embedded in plaster, or similar materials;

L. The placing of acoustic blocks with any plastic material, regardless of thickness;

M. The placing, by any method, of plaster or composition caps and ornaments;

N. The creating of decorative textures in finish coat by marking surface of coat with brush and trowel or by spattering it with small stones (stucco) where plastering equipment or materials, or both, are used; and

O. The operation and control of all types of plastering machines, including power trowels and floats;

(F) Communications [(Electronic/Telecommunication)] Technician—Applies to workers who install, inspect, repair, and service electronic and telecommunication systems. The work falling within the occupational title of Communication (Electronic/Telecommunication) Technician includes:

1. Installing, repairing, and servicing of radio, television, and recording systems and devices; systems for paging, intercommunication, public address, wired music, clocks, security and surveillance systems, and mobile radio systems; fire alarm and burglar alarm systems;

2. Wiring of low-voltage surface wiring and wiring in nonmetallic conduits and incidental shielded metallic conduit runs of no longer than ten feet (10') nor larger than one inch (1") when required in

conjunction with the work listed in this rule;

3. Installing, repairing, servicing, or a combination of these, of the Main Distribution Frame (MDF) where the permanent outside lines entering a building terminate and where the subscriber's line multiple cabling and trunk multiple cabling originate. It is usually located on the ground floor of a building;

4. Installing, repairing, servicing, or a combination of these, of the Intermediate Distribution Frames (IDF), which provides flexibility in allocating the subscriber's number to the line unit or equipment in the office that is to be associated with the particular line. These frames are located on each floor of a building;

5. Installing, repairing, servicing, or a combination of these, of the subpanels (blocks). The subpanels are connecting devices where large feed cables terminate at the distribution frames;

6. Installing, repairing common equipment or key service unit, or a combination of these. This equipment consists of a backboard assembly and an equipment mounting frame, which are utilized for connecting external telephones;

7. Installing, repairing, servicing of the instruments, terminals, and sets, or a combination of these. This equipment is at either end of a circuit, or at a subscriber's or user's terminal;

8. Installing, repairing, servicing, or a combination of these, of the ancillary or add-on equipment such as bells, buzzers, speaker-phones, headsets, automatic dialers, recorders; and

9. Installing, repairing, servicing of the telephone cable, or a combination of these. Telephone cable includes: network channel service cable; riser cables between floors of a building; distribution cables installed on each floor of a building in the floor or the ceiling, and inside wires between the telephone and the connection to the distribution cable;

(G) Electrician—[Encompasses two (2) subclassifications as follows, Inside Wireman and Outside-Line Construction/Lineman:

1. Inside wireman—] Applies to workers who are responsible for installation, assembly, construction, inspection, operation, and repair of all electrical work within the property lines of any given property (manufacturing plants, commercial buildings, schools, hospitals, power plants, parking lots). This scope of work shall begin at the secondary site of the transformer when the transformer is furnished by the local utility and the service conductors are installed underground. When service conductors are installed overhead in open air from wooden poles, this scope of work shall start immediately after the first point of attachment to the buildings or structures. The work falling within this occupational title of work description includes:

/A./1. Planning and layout of electrical systems that provide power and lighting in all structures. This includes cathodic protection systems utilized to protect structural steel in buildings and parking structures;

/B./2. All handling, moving, loading, and unloading of any electrical materials, materials used in association with an electrical system, electrical equipment, and electrical apparatus on the job site, whether by hand or where power equipment and rigging are required;

/C./3. Welding, burning, brazing, bending, drilling, and shaping of all copper, silver, aluminum, angle iron, and brackets to be used in connection with the installation and erection of electrical wiring and equipment;

/D./4. Measuring, cutting, bending, threading, forming, assembling, and installing of all electrical raceways (conduit, wireways, cable trays), using tools, such as hacksaw, pipe threader, power saw, and conduit bender;

/E./5. Installing wire in raceways (conduit, wireways, troughs, cable trays). This wire may be service conductors, feeder wiring, subfeeder wiring, branch circuit wiring;

/F./6. Chasing and channeling necessary to complete any electrical work, including the fabrication and installation of duct banks and manholes incidental to electrical, electronic, data, fiber optic, and telecommunication installation;

[G./7. Splicing wires by stripping insulation from terminal leads with knife or pliers, twisting or soldering wires together, and applying tape or terminal caps;

[H./8. Installing and modifying of lighting fixtures. This includes athletic field lighting when installed on stadium structures or supports other than wooden poles, or both;

[I./9. Installing and modifying of all electrical/fiber optic equipment (AC-DC motors, variable frequency drives, transformers, reactors, capacitors, motor generators, emergency generators, UPS equipment, data processing systems, and annunciator systems where sound is not a part thereof);

*[J./10. Installing of raceway systems utilizing conduit, conduit bodies, junction boxes, and device boxes for switches and receptacles. This also may include wiring systems utilizing other methods and materials approved by the *National Electrical Code* (MC cable, AC cable, BX, or flexible metal tubing or electrical nonmetallic tubing);*

[K./11. Installing of main service equipment, distribution panels, subpanels, branch circuit panels, motor starters, disconnect switches, and all other related items;

[L./12. Installing and wiring of instrumentation and control devices as they pertain to heating, ventilating, air conditioning (HVAC) temperature control and energy management systems, building automation systems, and electrically or fiber optic operated fire/smoke detection systems where other building functions or systems are controlled;

[M./13. Installing conduit or other raceway greater than ten feet (10') when used for the following: fire alarm systems, security systems, sound systems, closed circuit television systems or cable television systems, or any system requiring mechanical protection or metallic shielding (telephone systems);

[N./14. Testing continuity of circuit to insure electrical compatibility and safety of components. This includes installation, inspecting, and testing of all grounding systems including those systems designed for lighting protection; and

[O./15. Removing electrical systems, fixtures, conduit, wiring, equipment, equipment supports, or materials involved in the transmission and distribution of electricity within the parameters of the building property line if reuse of any of the existing electrical system is required. This may include the demolition and removal and disposal of the electrical system;

[2. Outside-line construction/lineman—Applies to workers who erect and repair transmission poles (whether built of wood, metal, or other material), fabricated metal transmission towers, outdoor substations, switch racks, or similar electrical structures, electric cables, and related auxiliary equipment for high-voltage transmission and distribution powerlines used to conduct energy between generating stations, substations, and consumers. The work (overhead and underground) falling within this occupational title of work description includes:

A. Construction, repair, or dismantling of all overhead and underground electrical installations. The handling and operation of all equipment used to transport men, tools, and materials to and from the job site. The framing, trenching, digging, and backfilling of vaults, holes and poles and anchors (by hand or mechanical equipment), guying, fastening to the stub-in on concrete footings or pads, assembling of the grillage, grounding of all structures, stringing overhead wire, installing underground wire, splicing, and installation of transformers;

B. Construction and repair of highway and street lighting and traffic signal systems, cathodic protection systems, and ball field lighting systems;

C. Lineman operator—Operates equipment used on the outside line portion of a project. The lineman operator assists linemen in the performance of their work but does not climb or work out of any type of aerial lift equipment.

The lineman operator does not perform any work that requires the use of hand tools;

D. Groundman—Work performed on the ground to assist the journeymen outside construction/lineman on work not energized. Groundmen use jack hammers, air drills, shovels, picks, tamps, trenching equipment, and other such tools for excavating and/or compacting dirt or rock on the outside line portion of a project but do not use hand tools;

E. Lineman tree trimmer—Trimming and removal of trees, stumps, limbs, brush, and other related tasks in and around electrical systems by use of chain saws, pruners, pole saws, and hand saws only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Lineman tree trimmer work may be performed on the ground and in the air; and

F. Groundman tree trimmer—Assists the lineman tree trimmer in the performance of their work using rakes, chain saws, chippers, and industrial mowers in and around electrical systems only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Groundman tree trimmer work is only performed on the ground; and

3. The occupational title of electrician may include in a particular wage determination the subclassifications of lineman operator, groundman, lineman tree trimmer, groundman tree trimmer, or any combination of these, pursuant to section (6). The description of work and corresponding wage rates shall be established pursuant to the proceedings set forth in section (6);

(H) Elevator Constructor—Applies to workers who assemble and install electric and hydraulic freight and passenger elevators, escalators, dumbwaiters, and moving walks. The work falling within this occupational title of work description includes:

1. The handling, unloading, and hoisting of all equipment to be assembled or installed by workers performing work within this occupational title of work description, from the time that equipment arrives at, or near the building site;

2. The wrecking or dismantling of elevator plants, to include elevators, escalators, dumbwaiters, moving walks, and all other equipment to be reused and assembled or installed by workers performing work within this occupational title of work description;

3. The sinking, drilling, boring, digging cylinder wells, or backfilling for hydraulic lifts, hydraulic elevators, or screw lifts;

4. The layout, erecting and assembling of all elevator equipment (for example, electric, hydraulic, steam, belt, compressed air, and hand-powered elevators; dumbwaiters, residence elevators, parking garage elevators);/;, and the assembly of all escalators, moving walks and link belt carriers;

5. The erecting and assembly of all theater stage and curtain equipment and guides and rigging to them, organ consoles, and orchestra elevators;

6. The installing of all wiring, conduit, and raceways from the first point of attachment of main feeder terminals on the controller to other apparatus and operating circuits;

7. The operating of temporary cars; and

8. The installing of all elevator enclosures, fronts, fascias, sills, frames, and bucks;

(I) Glazier—Applies to workers who select, cut, prepare, handle, install, or remove all window glass, plate, and all other types of glass, including structural glass, mirror glass, tempered and laminated glass, safety or protection glass, all types of insulating glass units,

all plastics or other similar materials when used in place of glass and when set or glazed with putty, moulding rubber, cement, lead, and all types of mastic, or other materials used in place of same. The workers performing work within this occupational title of work description install these materials in windows, louvers, doors, partitions, skylights, and on building fronts, walls, ceilings and tables, whether the materials are set in wood, stone, cement, or metal of all types. The work falling within the occupational title of work description includes:

1. The installing of mirrors of all types;
2. The marking of an outline or pattern on glass and cut glass with a glasscutter;
3. The breaking off of excess glass by hand or with a notched tool;
4. The fastening of glass panes into wood sash with glazier's points, and the spreading smooth of putty around the edge of panes with a knife to seal joints;
5. The installing of metal window and door frames into which glass panels are to be fitted or sliding windows. The bolting of metal hinges, handles, locks, and other hardware to prefabricated glass doors;
6. The installing of mirror or structural glass on building fronts, walls, ceilings or tables, using mastic, screws, or decorative moulding;
7. The installing of metal-framed glass enclosures for showers, bathtubs, and skylights; and
8. The installing, cutting, and removal of all window glass, plate, and all other types of glass, including structural glass, mirror glass, tempered and laminated glass, safety or protection glass, all types of insulating glass units, all plastics or other similar materials when used in place of glass and when set or glazed with putty, molding rubber, cement, lead, and all types of mastic, or other materials used in place of same;

(J) Ironworker—Applies to workers who perform work in connection with field fabrication, erection, or both, installation, removal, wrecking, and dismantling of structural, architectural, and reinforcing iron and steel, ornamental lead, bronze, brass, copper, and aluminum, and plastics or other materials when used in place of them. The work falling within the occupational title of work description includes:

1. Structural. The unloading, erecting, bolting-up, plumbing-up, welding, and in-stalling of structural steel, including any field fabrication;
2. Reinforcing. The unloading, carrying, placing, and tying of all concrete reinforcing, such as re-bar, wire mesh, expanded metal or post tensioning cable (including the tension process) or prestress cables when installed on the job site;
3. Rigging. The unloading, moving, handling, placing, and setting of electrical machinery and equipment when rigging or power equipment, or both, is used (with the exception of setting of electric motors). The assembly and erection of radio and television and other structural steel towers (with the exception of electrical transmission towers). The unloading, handling, moving, and placing of machinery to be assembled or dismantled, erected, or installed to its approximate position (over the anchor bolts);
4. Windows. The installation of metal windows (with the exception of store fronts display windows), curtain walls, and metal panels. The caulking of metal-to-metal joints and metal-to-brick;
5. Doors. The erection of curtain type doors (overhead rolling-type doors), heavy industrial doors when made of metal, fire doors, and exterior metal hinged doors that carry a fire underwriters label are erected by iron workers;
6. Sheeting and decking. The installation of sheeting which is attached to metal framework including metal floor decking;
7. Metal buildings. The erection and installation of structural steel and sheet metal packaged buildings when they come in a package unit, such as Butler, Delta, Varco Prudent, or other name brand packaged buildings. The installation of all doors, windows, and insulation

(when installed in conjunction with sheeting) in the packaged buildings. The installation of metal siding and metal roof decking, regardless of the fastening method or the object to which it is fastened;

8. Elevators. The installation of elevator doors for gates manually operated and all elevator enclosures, fronts, fascias, sills, frames, and bucks;

9. Precast. The unloading and installation/erection of precast bridge girders, single T's, double T's, top panels, and tilt-up slabs; and

10. Other. The installation of all catwalks, stairways, and hand rails made of aluminum, bronze, or any type of metal, glass or plastic. The installation of ornamental iron, such as revolving doors, gates, handrails, window grills, jail and cell work, and chain link fences. The installation of dry storage bins, hoppers, chutes, and conveyors where sand ore, coal, or any dry component is stored or transferred. The erection, installation, removal, wrecking, and dismantling of bridges, viaducts, cableways, tramway, monorail transportation systems. The erection, installation, removal, wrecking, and dismantling of locks, gates, metal forms, railings (including pipe). The erection, installation, removal, wrecking, and dismantling of frames in support of boilers. The installation of metal siding and metal roof decking, regardless of the fastening method, or the object to which it is fastened. The handling, burning, welding, and tying of all materials used to reinforce concrete structures. The installation and erection of TV and microwave towers, self-supporting towers, or guy towers. The installation of metal guardrails with metal posts and highway signage;

(K) **General Laborer (including first semi-skilled laborer and second semi-skilled laborer)**—Consists of providing routine manual labor. This work encompasses several subclassifications, with the title and work description considered in light of whether the public works project pertains to building construction or heavy/highway construction.

1. Building construction. The subtitles falling within the occupational title of work description for laborer, as applicable to building construction, are as follows:

A. *[General I/Laborer]* The work falling within this subtitle of work description includes:

(I) Being included in one (1) of the following categories: flagmen, heaters, material plant man, carpenter tender, landscaper, signalman, wrecker (old/new structures), form handler, or posthole digger;

(II) Cleaning and clearing of all debris for all crafts, loading and unloading, conveying, distributing, construction material by hand and collecting and hoisting debris, backfilling, grading, and landscaping by hand;

(III) Covering of tanks, structures, and material piles with tarpaulins or other materials. Cleaning of masonry and other type walls and windows. Signaling and hoisting concrete buckets and for all other material handled by workers falling within the occupational title of work description for laborer;

(IV) Providing drinking water. Handling and cleaning of concrete chutes. Cleaning of concrete spills and chipping where hand tools are required. Performance of work necessary in remedying defects in concrete caused by leakage, bulging, sagging, or shifting of forms when finishing tools are not used. Jackhammer and paving breaker, air compressors, motor buggies, pumps (removal of water), except set-up men and nozzle men, chipping tool operator, concrete mixer operator (up to and including two- (2-)/- bag capacity); and

(V) Laying nonpressurized pipe for downspout drain lines, header lines, or laying of nonpressurized conduit, or a combination of these, for the carrying of storm water, waste, sewage, gravity flow lines, catch basins and manholes, effluent lines, originating outside the building and all those lines originating inside the building at the first Y, T, or connection outside the building;

B. First semiskill laborer. The work falling within this subtitle of work description includes: hod-carriers, plasterers, and cement mason tenders (who assist bricklayers, plasterers, and cement

maisons). The mixing, packing, wheeling, and tempering of mortar and fire clay. The mixing, handling and conveying of all other materials used by bricklayers, plasterers, and cement masons (for example, brick, tile, stone and cast stone), whether done by hand or using a forklift (walk behind or similar types). Building of scaffolds, trestles, boxes, and swinging staging for bricklayers, plasterers, and cement masons; and

C. Second semiskill laborer. The work falling within this subtitle of work description includes: concrete pump set-up men and nozzle men, tile layers and bottom men, on sewers and drains, cutting torch, and burning bar (demolition), trench, or pier holes twelve feet (12') or over, wagon drill, air track or any mechanical drill, powder man, tamper, one hundred pounds (100 lbs.) or over, laborers working for mechanical and electric contractors (including but not limited to digging of all trenches, ditches, holes, paving of concrete, and cleaning of all trash), paving breaker, jackhammer and vibrator, laser beam man for sewer, grade checker for roads and railroads, asbestos removal (except mechanical systems that are not being scrapped and any type of roofing where the roof is to be relaid), hazardous waste removal, disposal work, or any combination of these.

2. Heavy/highway construction. The subtitle falling within the occupational title of work description for **general** laborer, as applicable to heavy/highway construction, are as follows:

A. *[General]* Laborer. The work falling within this subtitle of work description includes: carpenters tenders, salamander tenders, dump man, ticket takers, flagman, loading trucks under bins, hoppers and conveyors, track men, cement handler, dump man on earth fill, Georgia buggy man, material batch hopper man, spreader on asphalt machine, material mixer man (except on man holes), coffer dams, riprap pavers—rock, block, or brick, signal man for materials handled by laborers, scaffolds over ten feet (10') not self-supported from ground up, skipman on concrete paving, wire mesh setters on concrete paving, work in connection with nonpressurized pipelines, such as nonpressurized sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile, and duct lines and other nonpressurized pipelines; power tool operator; work performed by hand in connection with hydraulic or general dredging operations, form setters (curb and gutter), puddlers (paving only), straw blower nozzle man, asphalt plant platform man, chuck tender, crusher feeder, men handling creosote ties or creosote materials, men working with and handling epoxy material(s), topper of standing trees, feeder man on wood pulverizers, board and willow mat weavers and cable tiers on river work, deck hands, guardrail and temporary signs, pile dike and revetment work, all laborers working on underground tunnels less than twenty-five feet (25') where compressed air is not used, abutment and pier hole men working six feet (6') or more below ground, men working in coffer dams for bridge piers and footings in the river, Barca tamper, Jackson or any other similar tamp, cutting torch man, liners, curb, gutters, ditchliners, hot mastic kettelman, hot tar applicator, hand blade operators and mortar men on brick or block manholes, rubbing concrete, air tool operator under sixty-five pounds (65 lbs.), caulker and led man, chain or concrete saw under fifteen horsepower (15 HP). The unloading, handling, and carrying of concrete reinforcing bars, by hand, to the areas in which they are used, wrecking, stripping, dismantling, cleaning, moving, and oiling of all concrete forms; digging and laying sewer tile; and

B. Skilled laborer. The work falling within this subtitle of work description includes: vibrator man, asphalt raker, head pipe layer on sewer work, batterboard man on pipe and ditch work, cliff scalers working from Bosun's chairs, scaffolds, or platforms on dams or power plants over ten feet (10') high, air tool operator over sixty-five pounds (65 lbs.), stringline man on concrete paving and the like, sandblast man, laser beam man, wagon drill, churn drill, air track drill, and all other similar type drills, jackhammers, and other pneumatic hammers and tampers, Gunitex nozzle man, pressure grout man, screed man on asphalt, concrete saw fifteen (15) HP and over, grade checker, stringline man on electronic grade control, manhole builder, dynamite man, powder man, welder, tunnel man

waterblaster—one thousand pounds per square inch (1000 psi) over, asbestos (except mechanical systems that are not being scrapped), hazardous waste removal, disposal, or any combination of these;

[(L) Lather—Applies to workers who erect horizontal metal framework to which laths are fastened, using nails, bolts, studgun, or a combination of these, drills holes in floor and ceiling and drives ends of wooden or metal studs into holes to provide anchor for furring or rockboard laths. The occupational title of lather applies to workers who nail, clip or fasten, all types of wood, wire and metal laths, plasterboard, wallboard, rockboard, gypsum, sheetrock and acoustical materials which take the place of same to walls, ceilings and partitions of buildings to provide supporting base for plaster, fireproofing or acoustical material. The occupational title of work description for lather applies to workers who erect all metal plastering accessories which are covered or serve as ground, or both, guard, stock or screed for plaster materials, including wire mesh. The work falling within the occupational title of work description includes:

1. *The installing of carrying bars and purlins (pieces of horizontal timber), light iron and metal furring (thin strips of wood or metal to create air space) of all descriptions, such as rods, channels, flat iron, T-bar, H-bar and other ceiling bars or systems for the receipt of lath and board;*

2. *The wiring of plasterer channels to overhead structural framework to provide support for plaster or acoustical ceiling tile; and*

3. *The nailing of plaster grounds (wood or metal strips) to studding to provide a guide for those workers performing work falling within the occupational title of work description for plasterer;*

[(M) Linoleum Layer and Cutter—Applies to workers who measure, cut, sew, make-up and seam, tape, fit, lay and install and seal and wax materials to be cemented, tacked or otherwise applied to its base, wherever it may be. These materials may be used as shock-absorbing, sound-absorbing or decorative coverings. With the exception of terrazzo, magnesite and latex built-up floors, the materials include oil cloth, matting, linen, carpet, synthetic turf, linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastipave, tile, wood tile, interlocking and magnetic tile, chalk and bulletin board, nonslip or abrasive materials, resilient, decorative seamless surface coatings, monolithic coverings (monolithic shall mean all resilient seamless material such as epoxy, polyethylene, plastics and their derivatives, components and systems) and all other resilient coverings on floors, walls, counters, table tops and ceilings. The work falling within the occupational title of work description includes:

1. *The handling of materials at the point of installation;*

2. *The performing of all necessary preparation and finish work, such as sweeping, scraping, sanding, or chipping dirt and irregularities from base surfaces and filling cracks with putty, plaster, or cement grout to form smooth, clean foundations, drilling holes for sockets and pins;*

3. *The installing of underlayment, sanding and filling, fitting of metal edgings, metal corners and caps and fitting devices for attachment of these materials;*

4. *The spreading of adhesive cement over floor to cement foundation material to the floor;*

5. *The laying of covering on cement; and*

6. *The rolling of finished floor to smooth it out and press cement into base and covering;*

[(N) Millwright—Applies to workers who design, build, or repair mills or mill machinery; hoist, dismantle, erect, assemble, line and adjust all machines used in the transmission of power in buildings, factories or elsewhere; unload machines used in the transmission of power in buildings, factories or elsewhere, where power equipment and rigging are required.

The work falling within this occupational title of work description includes: the setting of all classes of engines, direct drive motors, dynamos, turbines, generators and air compressors and pumps. The assembling, setting and packing of all compressors and pumps. The placing of all pulleys, sheaves and fly wheels on the listed equipment. The making and setting of all templates and bolts for all machinery requiring same. Drypacking for sole plates. Installation of truck and railroad scales. Installation of trash compactors. Installation of all types of conveyors. The cutting and threading of all bolts. The handling and operating of all acetylene and devices for heating, welding and cutting when used in connection with millwright work;]

(L) Mason (which shall include marble mason, marble finisher, terrazzo worker, terrazzo finisher, tile setter, and tile finisher).

1. Marble Mason-Terrazzo Worker—The work falling within the occupational title of work description for Marble Mason-Terrazzo Worker includes:

A. The installing of marble, mosaic, venetian enamel, and terrazzo; the cutting and assembling of mosaics and art ceramics; the casting of all terrazzo on the job site; all rolling of terrazzo work;

B. The preparing, cutting, layering, or setting of metal, composition, or wooden strips and grounds on all bedding above concrete floors or walls; and the laying and cutting of metal, strips, lath, or other reinforcement, where used in terrazzo work;

C. The installing of cement terrazzo, magnesite terrazzo, dex-o-tex terrazzo, epoxy matrix terrazzo, exposed aggregate. Rustic or rough wash of exterior or interior of buildings. The mixing or applying of any other kind of mixtures of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother of pearl, quartz ceramic colored quartz, and all other kinds of chips or granules when mixed with cement, rubber, neoprene, vinyl, magnesium chloride, or any other resinous or chemical substances used for seamless flooring systems. The applying of binding materials when used on walls, floors, ceilings, stairs, saddles, or any other part of the interior or exterior of the building, or other work not considered a part of the building such as fountains, swimming pools;

D. The finishing of cement floors where additional aggregate of stone is added by spreading or sprinkling on top of the finished base and troweled or rolled into the finish and then the surface ground by grinding machines (When no additional stone aggregate is added to the finished mixture, even though the surface may be ground, the work falls within the occupational title of work description for cement masons.); and

E. The carving, cutting, and setting of all marble, slate, including slate backboards, stone, alabaster, carrara, sanionyx, vitrolite, and similar opaque glass, scagliola, marbleithic, and all artificial, imitation, or case marble of whatever thickness or dimension. This shall apply to all interior work, such as sanitary, decorative, and other purposes inside of buildings of every description wherever required, including all polish, honed, or sand finish.

2. Marble Finisher—The work falling within the occupational title of work description for Marble Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Marble Mason installation of construction materials on floor and/or walls; the movement of marble installation materials, tools, machines, and work devices to work areas; the erection of scaffolding and related installation structures;

B. The movement of marble slabs for installation; the drilling of holes and the chiseling of channels in edges of marble slabs to install wall anchors, using power drill and chisel; the securing of marble anchors to studding, using and covering ends of anchors with plaster to secure anchors in place;

C. The supply and mixture of construction materials for

Marble Mason; the mixture of grout, as required, following standard formulas and using manual or machine mixing methods; the application of grout to installed marble; the movement of mixed mortar or plaster to installation area, manually or using wheelbarrow;

D. The removal of excess grout, using wet sponge; the cleaning of installed marble surfaces, work and storage areas, installation tools, machinery, and work aids, using water and cleaning agents;

E. The modification of mixing, material moving, grouting, polishing, and cleaning metal pieces, using a torch, spatula, and heat sensitive adhesive and filler;

F. The removal of marble installation materials and related debris from immediate work area; the storing of marble, installation material tools, machines, and related items; and

G. The provision of assistance to Marble Mason with the following tasks: bending or forming of wire to form metal anchors, using pliers; inserting anchors into holes of marble slab; securing anchors in place with wooden stakes and plaster; selecting marble slab for installation following numbered sequences or drawings; grinding and polishing marble, using abrasives, chemical and/or manual, in machine grinding and/or polishing techniques, under Marble Mason's direction; the moving and positioning of marble.

3. Terrazzo Finisher—The work falling within the occupational title of work description for Terrazzo Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Terrazzo Worker installation of construction materials on floors, base, and/or walls; the moving of terrazzo installation materials, tools, machines, and work devices to area, manually or using wheelbarrow;

B. The supply and mixture of construction materials for Terrazzo Worker; the preparation, mixture by hand, mixture by mixing machine, or transportation of premixed materials and the distribution with shovel, rake, hoe, or pail, of all kinds of concrete foundations necessary for mosaic and terrazzo work; the dumping of mixed materials that form base or top surface of terrazzo into prepared installation site, using wheelbarrow; the measuring of designated amounts of ingredients for terrazzo or grout, using graduated containers and scale, following standard formulas and specifications, and the loading of portable mixer using proper means of transport; the mixture of materials according to experience and requests from Terrazzo Worker;

C. The spreading of marble chips or other material over fresh terrazzo surface and the pressing of the material into terrazzo by use of a roller; the application of grout finishes to surfaces of installed terrazzo; the spreading of grout across terrazzo to finish surface imperfections, using trowel; the installation of grinding stones in power grinders, using hand tools; the fine grinding and polishing of the surface of terrazzo, when grout has set, using power grinders; the application of curing agent to installed terrazzo to promote even curing, using brush or sprayer; the cutting of grooves in terrazzo stairs, using power grinder, and the filling of grooves with nonskid material;

D. The modification of mixing, grouting, grinding, and cleaning position and the securing of moisture membrane and wire mesh prior to pouring base materials for terrazzo installation;

E. The washing of the surface of polished terrazzo, using cleaner and water, and the application of sealer, according to manufacturer specifications, using brush; the cleaning of the installation site, and storage areas, tools, machines, and equipment; the removal of Terrazzo Worker materials and related debris from immediate work area; and

F. The provision of assistance to Terrazzo Worker with the following tasks: grinding surfaces of cured terrazzo; using power grinders.

4. Tile Setter—The work falling within the occupational title of work description for Tile Setter includes:

A. The application of tile to floors, walls, ceilings, stair treads, promenade roof decks, garden walks, swimming pools, and all places where tiles may be used to form a finished surface for practical use, sanitary finish, or decorative purpose. (Tile includes all burned clay products, as used in the tile industry, either glazed or unglazed, all composition materials; all substitute materials in single units up to and including, fifteen inches by twenty inches by two inches (15" × 20" × 2") (except quarry tiles larger than nine inches by eleven inches (9" × 11")) and all mixtures in the form of cement, plastics, and metals that are used as a finished surface.);

B. The cutting and shaping of tile with saws, tile cutters, and biters; and

C. The positioning of tile and tapping it with a trowel handle to affix tile to plaster or adhesive base.

5. Tile Finisher—The work falling within the occupational title of work description for Tile Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods for Tile Setter to install construction materials on floors and walls; the movement of tiles, tile setting tools, and work devices from storage area to installation site manually or using wheelbarrow;

B. The supply and mixture of materials for Tile Setter; the supply and mixture of construction materials for Tile Setter; the mixture of mortar and grout accordingly to standard formulas and request from Tile Setter using bucket, water hose, spatulas, and portable mixer; the modification of mixing, grouting, grinding, and cleaning procedures according to type of installation or material used; the supply to Tile Setter of mortar, using wheelbarrow and shovel; the application of grout between joints of installed tile, using grouting trowel; the application of grout; the cutting of installed tile;

C. The removal of excess grout from tile joints with a sponge and scraping of corners and crevices with a trowel; the application of caulk, sealers, acid, steam, or related agents to caulk, seal, or clean installed tile, using various application devices and equipment;

D. The wiping of surfaces of tile after grouting to remove grout residue and polish tile, using non-abrasive materials; the removal of Tile Setter materials and related debris from immediate work area; the cleaning of installation site, mixing and storage tools, and equipment, using water and various cleaning tools; the storing of tile setting material machines, tools, and equipment; and

E. The provision of assistance to Tile Setter to secure position of metal lath, wire mesh, felt paper, Dur/rock or wonderboard prior to installation of tile;

/(O)/(M) Operating Engineer (which shall include operating engineer group I, operating engineer group II, operating engineer group III, operating engineer group III-A, operating engineer group IV, and operating engineer group V)— [The] Applies to workers who perform work falling within the occupational title of work description for operating engineer/portable and hoisting *operate/operator*, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment. This occupational title encompasses several subclassifications, with the title and work description considered in light of whether the public works project pertains to building construction or heavy/highway construction.

1. Building construction. The subtitles falling within the occupational title of work description for operating engineer, as applicable to building construction, are as follows:

A. Group I—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: crane (for example,

crawler or truck); dragline—clam shell—gradall; Derrick (all types); kimmer scoop; power shovel or backhoe over one (1) cubic yard; pile driver (for example, land or floating); Whirley; mechanic and welder; hydraulic, self-propelled crane; stinger or cherry picker crane; switch boat; concrete portable plant/concrete mixer paver; cableways;

B. Group II—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: asphalt paver and spreader/concrete spreader; asphalt plant mixer operators; asphalt plant operator; backfillers; back hoe (under one (1) cubic yard); Barber-Green loader (similar type); blade—power, all types; boats—power; boilers; boring machine (all types, including tunnel boring); brooms—power operated (all types); concrete saw (self-propelled); chip spreader (front man); clef plane operators; combination concrete hoist and mixer such as mix or mobile; crab—power operated; crusher rock; ditching machine; dozer/dredges; finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist operator (all types); hopper—power operated; hydra hammer (all types); Lad-A-Vator—similar type; loaders—all types, including skid-steer (for example, */b/Bobcat*); locomotives (all types); curb finishing machine; mucking machine; orange peels; pumps (all types); push cats; rollers (all types); scoops (all types except skimmer scoop); self-propelled rotary drill; air compressors (all types); side boom; siphons, jets, and jennies; welding machine; subgrader; testhole machine; throttle man tractors over fifty (50) HP; air tugger with air compressor; anchor placing barge; Ahoy force feeder loader (self-propelled); bull float; pipe cleaning/wrapping machine; conveyor; heaters, fuel fired with forced air; quadtrack; tie tamper; vibrating machine; well drilling machine; forklift (except masonry forklift);

C. Group III—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: tractors (under fifty (50) HP); distributor (bituminous); scissor lift; small machine (operator); mud jack; wench truck operator; pug mill operator; elevator-push button; A-frame truck; mixers; oilers;

D. Group III-A—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as a masonry forklift;

E. Group IV—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as a self-propelled floor sweeper; and

F. Group V—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: elevator—auto; air pressure oiler; air pressure engineer.

2. Heavy/highway construction. The subtitles falling within the occupational title of work description for operating engineer, as applicable to heavy/highway construction, are as follows:

A. Group I—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: asphalt finishing machine and trench; widening spreader; asphalt plant console operator; autograder; automatic slipform paver; backhoe; blade operator (all types); boat operator (all types); boilers—two (2); central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; Derrick or Derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader including skid steer (for example,

/b/Bobcat); hoisting engine—two (2) active drums; launchhammer wheel; locomotive operator—standard gauge; mechanics and welders; mucking machine; piledriver operator; Pitman crane operator; push cat operator; quadtrack; scoop operator—all types; shovel operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane;

B. Group II—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; Barber-Greene loader; chip spreader; concrete mixer operator; skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; forklift; greaser—fleet; hoisting engine—one (1); locomotive operator—narrow gauge; multiple compactor; pavement breaker; power-broom—self-propelled; power shield; rooter; side discharge concrete spreader; slip form finishing machine; stumpcutter machine; throttle man; tractor operator—over fifty (50) HP; wench truck;

C. Group III—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: boilers—one (1); chip spreader (front man); churn drill operator; clef plane operator; concrete saw operator self-propelled; curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high-type asphalt; screening and washing plant operator; siphons and jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator—combination boiler and booster; tractor operator fifty (50) HP or less; Umac, Ulric, or similar spreader; vibrating machine operator, not hand;

D. Group IV—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as an oiler or oiler-driver (fireman—rig; maintenance operator); land/

[E. Oiler-driver—This subtitle applies to workers who operate, monitor and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically or any power-operated equipment set forth as follows: fireman—rig; maintenance operator;]

(N) Outside- lineman, lineman operator, groundman, lineman tree trimmer, groundman tree trimmer, and any combination thereof.

1. Outside-lineman—Applies to workers who erect and repair transmission poles (whether built of wood, metal, or other material), fabricated metal transmission towers, outdoor substations, switch racks, or similar electrical structures, electric cables, and related auxiliary equipment for high-voltage transmission and distribution powerlines used to conduct energy between generating stations, substations, and consumers. The work (overhead and underground) falling within this occupational title of work description includes:

A. Construction, repair, or dismantling of all overhead and underground electrical installations. The handling and operation of all equipment used to transport men, tools, and materials to and from the job site. The framing, trenching, digging, and backfilling of vaults, holes and poles, and anchors (by hand or mechanical equipment), guying, fastening to the stub-in on concrete footings or pads, assembling of the grillage, grounding of all structures, stringing overhead wire, installing underground wire, splicing, and installation of transformers;

B. Construction and repair of highway and street lighting and traffic signal systems, cathodic protection systems, and ball field lighting systems;

2. Lineman operator—Operates equipment used on the out-

side line portion of a project. The lineman operator assists linemen in the performance of their work but does not climb or work out of any type of aerial lift equipment. The lineman operator does not perform any work that requires the use of hand tools;

3. Groundman—Work performed on the ground to assist the journeymen outside line construction/lineman on work not energized. Groundmen use jack hammers, air drills, shovels, picks, tamps, trenching equipment, and other such tools for excavating and/or compacting dirt or rock on the outside line portion of a project but do not use hand tools;

4. Lineman tree trimmer—Trimming and removal of trees, stumps, limbs, brush, and other related tasks in and around electrical systems by use of chainsaws, pruners, pole saws, and hand saws only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Lineman tree trimmer work may be performed on the ground and in the air; and

5. Groundman tree trimmer—Assists the lineman tree trimmer in the performance of their work using rakes, chainsaws, chippers, and industrial mowers in and around electrical systems only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Groundman tree trimmer work is only performed on the ground;

[(P)](O) Painter—The work falling within the occupational title of work description for painter includes:

1. Preparation of surfaces. The washing, cleaning, pointing, and taping of drywall, regardless of material used, and smoothing of surfaces, using sandpaper, brushes, or steel wool. The removal of old paint or other coatings from surfaces, using paint remover, scraper, wire brushing, sandblasting, water blasting, liquid steam, or by any other similar process. The filling of nail holes, cracks, and joints with putty, plaster, or other fillers;

2. Color matching and mixing. The application of paint, varnish, stain, enamel, lacquer, vinyl, wallpaper, and other materials of whatever kind of quality applied to walls or ceilings with paste or adhesive, using brushes, spray gun (spray painter), or paint rollers. The application of polyurethane elastomers, vinyl plastics, neoprene, resin, polyester, and epoxy as waterproofing or protective coatings to any kind of surface (except roofs) when applied with brushes, spray guns, or rollers;

3. Texturing and decorating. The erecting of scaffolding or setting up of ladders to perform the work above ground level. The paperhanging of walls and ceilings with decorative wall coverings made of fabric, vinyl, or paper. The preparing of the surface to be covered by applying sizing, which seals the surface and makes the covering stick better. The removal of the old covering by soaking, steaming, or applying solvents. The patching of holes and other imperfections before applying the new wall covering. The measuring of the area to be covered; the cutting of the covering into strips of the proper size, the checking of the covering for flaws and the examination of the pattern so it can be matched when the strips are hung. The preparation of paste or other adhesives according to manufacturers' directions, and the brushing or rolling it on the covering. The placing of the strips on the wall or ceiling, to match adjacent patterns. The smoothing of the strips to remove bubbles and wrinkles; the trimming of the top and bottom with a razor blade; and the painting or taping of highway striping, or both; and

4. Cleanup. The cleanup of tools and equipment required in connection with work falling within this occupational title;

[(Q) Plasterer—Applies to workers who apply gypsum, Portland cement, stucco, imitation stone and kindred materials

and products to interior walls, ceilings and partitions and to exterior walls of buildings, and finish those materials and products. The work falling within the occupational title of work description includes:

1. The spreading of plaster over laths, masonry or any other base, using trowel; and smoothing the plaster with darby and float for uniform thickness;
2. The application of the various manufacturers' brand names of thin coat or plaster veneer;
3. The application of all bonding agents and mastic;
4. The roughing of undercoat with wire or metal scraper to provide bond for succeeding coat of plaster;
5. The application of all malleable plastic materials and epoxy materials;
6. The setting in place of plasterboard, insulation board, styrofoam and bead-board, ground, locks, patent dots, cork plates, brownstone and acoustical tile, fiberglass reinforcement and finished products;
7. The plastering of joints, nail holes and bruises on wallboard;
8. The grouting and filling of door bucks, runners and similar installations, in conjunction with plastering operations;
9. The application of scratchcoat, browncoat and finish coat of plaster to wood, metal or board laths successively to all ceilings and walls when finished with terrazzo or tile, and the application of any plastic material to same;
10. The fireproofing of all building assemblies with plaster materials, sprayed fiberglass or similar materials, whether applied to gypsum, metal lath or directly;
11. The application of crushed stone, marble or ceramic chips and broken glass where embedded in plaster, or similar materials;
12. The placing of acoustic blocks with any plastic material, regardless of thickness;
13. The placing, by any method, of plaster or composition caps and ornaments;
14. The creating of decorative textures in finish coat by marking surface of coat with brush and trowel or by spattering it with small stones (stucco) where plastering equipment or materials, or both, are used; and
15. The operation and control of all types of plastering machines, including power trowels and floats;]

[(R)](P) Plumber[—Applies to workers who install and repair domestic potable water lines, gravity waste disposal systems inside the curb or fence lines, plumbing fixtures such as: bathtubs, sinks and toilets—and appliances such as, dishwashers and water heaters. The work falling within the occupational title of work description for plumber includes:] (which shall include pipe fitter).

1. General Plumber—Applies to workers who install and repair domestic potable water lines, gravity waste disposal systems inside the curb or fence lines, plumbing fixtures such as: bathtubs, sinks, and toilets—and appliances such as, dishwashers and water heaters. The work falling within the occupational title of work description for plumber includes:

[1./A. Assembling and installing piping systems, fixtures and equipment for the transportation of domestic water and sewage. Piping systems installed in structures (for example, buildings, industrial plants) to the first Y, T, or connection located outside the building;

[2./B. Cutting, threading, and bending pipe. Joining pipes by use of screws, bolts, fittings, solder, welding brazing, and caulking or any other method of making joints in the plumbing industry;

[3./C. Assembling, installing, and repairing valves, pipe fittings, and pumps. Testing the piping system. Installing and repairing plumbing fixtures, such as sinks, bathtubs, water heaters, and water softeners; and

[4./D. Cutting holes in floors and walls for pipes with point and hammer, core drill, or both;].

2. Pipe Fitter—Applies to workers who fabricate, install, and repair piping systems to include: water and waste processing systems; heating and air-conditioning systems, pneumatic controls, and pneumatic delivery systems; powerhouse and all pressurized piping systems; gas, oxygen systems; gasoline systems not for public sale. The work falling within this occupational title of work description includes:

A. Piping systems installed in structures (for example, buildings, industrial plants, and the like);

B. Cutting, threading, and bending pipe. Joining pipes by use of screws, bolts, fittings, solder, welding, and caulking, or any other method of making joints in the pipefitting industry;

C. Assembling, installing, and repairing valves, pipe fittings, and pumps. Testing the piping system. Cutting holes in floors and walls for pipes with point and hammer, core-drill, or both;

D. Installing of distribution lines (for example, water mains, sewer mains, oil and gas lines);

E. Welding of steel pipe joints and joining pipes with screws, bolts, fittings, solder, caulking, or any other method for making joints in the industry; and

F. Joining ductile iron and plastic pipes by using any method for making joints in the industry, when the pipe will be under pressure;

[(S) Pile Driver—The work falling within the occupational title of work description for pile driver includes:

1. The handling, layout, driving, cutting and splicing of wood, metal or concrete piling regardless of purpose (for example, sheets, I-beams, pile caps and welding to piling);

2. The assembly, disassembly and rigging of the pile driving equipment; and

3. The conduct of underwater diving that is incidental to pile driving work;

(T) Pipe Fitter—Applies to workers who fabricate, install and repair piping systems to include: water and waste processing systems; heating and air-conditioning systems, pneumatic controls and pneumatic delivery systems; powerhouse and all pressurized piping systems; gas, oxygen systems; gasoline systems not for public sale. The work falling within this occupational title of work description includes:

1. Piping systems installed in structures (for example, buildings, industrial plants and the like);

2. Cutting, threading and bending pipe. Joining pipes by use of screws, bolts, fittings, solder, welding and caulking, or any other method of making joints in the pipefitting industry;

3. Assembling, installing, and repairing valves, pipe fittings and pumps. Testing the piping system. Cutting holes in floors and walls for pipes with point and hammer, core-drill, or both;

4. Installing of distribution lines (for example, water mains, sewer mains, oil and gas lines);

5. Welding of steel pipe joints and joining pipes with screws, bolts, fittings, solder, caulking or any other method for making joints in the industry; and

6. Joining ductile iron and plastic pipes by using any method for making joints in the industry, when the pipe will be under pressure;]

[(U)](Q) Roofer/[Waterproofer]—Applies to workers who apply and install any and all types of roofing materials, other than sheet metal. The work falling within this occupational title of work description includes:

1. The installation of slate and tile and all substitute materials taking the place of slate and tile used for roofing including flat or promenade slate, with necessary metal flashing to make water-tight;

2. The cementing in, on, or around slate and tile roofs. The laying of felt or paper beneath the slate and tile. The dressing, punching,

and cutting of all roof slate or tile either by hand or machinery;

3. The installation of all forms of plastic, slate, slag, gravel; asphalt and composition roofing; rock asphalt mastic when used for damp and waterproofing; prepared paper; compressed paper and chemically prepared paper, and burlap with or without coating. The installation of all damp resisting preparations regardless of the method of application in or outside of building. The installation of damp courses, sheeting, or coating on foundation work and tarred roofs. The laying of the tile or brick, when laid in asphalt or pitch tar;

4. The installation and application of new materials used in roofing, water-proofing, encapsulation, and containment process including all forms of elastomeric or plastic (elastoplastic), or both, roofing systems, both sheet and liquid applied, whether single-ply or multi-ply. The installation of aggregates or stone, used as a ballast for inverted roofing membrane assembly, or roof of similar construction where insulation is laid over the roofing membrane. The sealing and caulking of seams and joints on these elastoplastic systems to insure water-tightness. The applying of liquid-type elastoplastic preparation for roofing, damp, or waterproofing when applied with a squeegee, trowel, roller, or spray equipment whether applied inside or outside of a building. The priming of surfaces to be roofed, damp, or waterproofed, whether done by roller, mop, swab, three- (3-)/- knot brush, or spray systems. The waterproofing of all types of preformed panels;

5. The application of all types of spray-in-place such as urethane or polyurethane, and the coatings that are applied over them;

6. The application of roof insulation, when the insulation material is applied as an integral part of the roofing system, whether the insulation material is applied as the first, last, or any other layer in between;

7. The operation and servicing of all kettles, bulk tankers, stationary heating tankers, and other types of equipment and tools used to accomplish this work (including heating systems for the operation of the equipment); and compressors for applying roofing material components, roof and mop carts, hydraulics, tools and equipment, be it hand or power, needed to apply waterproofing, insulated, and roofing materials;

8. The handling, hoisting, and storing of all roofing, damp, and waterproofing materials; and

9. The tear-off, removal, or both, of any type of roofing, all spudding, sweeping, vacuuming, cleanup, or a combination of these, of any areas of any type where a roof is to be relayed;

[(V)](R) Sheet Metal Worker—The work falling within the occupational title of sheet metal worker includes:

1. The handling, conditioning, assembling, installing, servicing, repairing, altering, and dismantling of the duct work for the heating, ventilation, and air-conditioning systems regardless of the materials used and the setting of all equipment and all supports and reinforcements in connection with the system;

2. The installation of expansion and discharge valves, air filters, and water filters in heating, ventilation, and air-conditioning systems;

3. The testing and balancing of air-handling equipment and duct work;

4. The forming, rolling, drawing, stamping, or pressing of sheet metal shingles, sheet metal tile, sheet metal brick, sheet metal stone, and sheet metal lumber, when specified for use as roofing, siding, waterproofing, weather proofing, fire proofing, or for ornamental or any other purpose;

5. The performing of sheet metal work specified for use in connection with or incidental to steeples, domes, minarets, look outs, dormers, louvers, ridges, copings, roofing, decking, hips, valleys, gutters, outlets, roof flanges, flashings, gravel stops, leader heads, down spouts, mansards, balustrades, skylights, cornice moulding, columns, capitals, panels, pilasters, mullions, spandrils, and any and all other shapes, forms and design of sheet metal work specified for use for waterproofing, weatherproofing, fire proofing, ornamental, decorative, or display purposes, or as trim on exterior of the buildings;

6. The installing of sheet metal ceilings with cornices and mouldings of plain, ornamental, enameled, glazed, or acoustic type;

7. The installing of side walls, wainscoting of plain, ornamental, enameled, or glazed types, including sheet metal tile;

8. The application of all necessary wood or metal furring, plastic, or other materials, to which they are directly applied;

9. The performing of sheet-metal work specified for use in connection with or incidental to direct, indirect, or other types of heating, ventilating, air-conditioning, and cooling systems (including risers, stacks, ducts, S strips, fittings, dampers, casings, recess boxes, outlets, radiator enclosures, exhausts, ventilators, frames, grisses, louvers, registers, cabinets, fans, and motors);

10. The air washers, filters, air brushes, housings, air-conditioning chambers;

11. The setting and hanging of air-conditioning units, unit heaters or air-veyor systems, and air handling systems regardless of material used;

12. The assembling and setting up of all cast iron parts, warm air furnace, all stoker, gas, and oil burner equipment used in connection with warm air heating, all sheet metal hoods, casings, wall stacks, smoke pipes, truck lines, cold air intake, air chambers, vent pipes, frames, registers, dampers, and regulation devices;

13. The installing of equipment utilized in the operation of kitchens including ranges, canopies, steam tables, work tables, dishwashers, coffee urns, soda fountains, warming closets, sinks, drainboards, garbage chutes, incinerators, and refrigerators;

14. The installing of tubing, pipes, and fittings, used in connection with or incidental to coppersmithing work. The installation of fume hoods, metal toilet partitions, metal lockers, plain metal shelving; and

15. The handling, moving, hoisting, and storing of all sheet metal materials on the job site, where power equipment and rigging are required;

[(W)](S) Sprinkler Fitter—*[Fire Protection—]* Applies to workers who perform the installation, adjustments, and corrections, repair, and dismantling of all fire protection and fire control systems and the installation of all fire piping for tubing, appurtenances, and equipment. The work falling within the occupational title includes: The handling and installation of all piping and appurtenances pertaining to sprinkler equipment, including both overhead and underground water mains, fire hydrants and hydrant mains, standpipes, and hose connections to the sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and alarm systems, tank and pump connections, and fire protection systems using mulsifyre, spray, water, fog, carbon dioxide (CO₂), gas and foam and dry chemical systems; **and**

[(X) Terrazzo and Marble Occupational Titles—*This subsection sets forth work descriptions for three (3) occupational titles related to terrazzo and marble work.*

1. **Terrazzo Worker-Marble Mason**—*The work falling within the occupational title of work description for Terrazzo Worker-Marble Mason includes:*

A. *The installing of marble, mosaic, venetian enamel and terrazzo; the cutting and assembling of mosaics and art ceramics; the casting of all terrazzo on the job site; all rolling of terrazzo work;*

B. *The preparing, cutting, layering or setting of metal, composition or wooden strips and grounds on all bedding above concrete floors or walls; and the laying and cutting of metal, strips, lath or other reinforcement, where used in terrazzo work;*

C. *The installing of cement terrazzo, magnesite terrazzo, dex-o-tex terrazzo, epoxy matrix terrazzo, exposed aggregate. Rustic or rough wash of exterior or interior of buildings. The mixturing or applying of any other kind of mixtures of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother of pearl, quartz ceramic colored quartz, and all other kinds of chips or granules when mixed*

with cement, rubber, neoprene, vinyl, magnesium chloride or any other resinous or chemical substances used for seamless flooring systems. The applying of binding materials when used on walls, floors, ceilings, stairs, saddles or any other part of the interior or exterior of the building, or other work not considered a part of the building such as fountains, swimming pools;

D. The finishing of cement floors where additional aggregate of stone is added by spreading or sprinkling on top of the finished base and troweled or rolled into the finish and then the surface ground by grinding machines (When no additional stone aggregate is added to the finished mixture, even though the surface may be ground, the work falls within the occupational title of work description for cement masons.); and

E. The carving, cutting and setting of all marble, slate, including slate backboards, stone, alabaster, carrara, santonix, vitrolite and similar opaque glass, scagliola, marbleitic and all artificial, imitation or case marble of whatever thickness or dimension. This shall apply to all interior work, such as sanitary, decorative and other purposes inside of buildings of every description wherever required, including all polish, honed or sand finish;

2. **Marble Finisher**—The work falling within the occupational title of work description for Marble Finisher includes:

A. The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Marble Mason installation of construction materials on floor and/or walls; the movement of marble installation materials, tools, machines, and work devices to work areas; the erection of scaffolding and related installation structures;

B. The movement of marble slabs for installation; the drilling of holes and the chiseling of channels in edges of marble slabs to install wall anchors, using power drill and chisel; the securing of marble anchors to studding, using and covering ends of anchors with plaster to secure anchors in place;

C. The supply and mixture of construction materials for Marble Mason; the mixture of grout, as required, following standard formulas and using manual or machine mixing methods; the application of grout to installed marble; the movement of mixed mortar or plaster to installation area, manually or using wheelbarrow;

D. The removal of excess grout, using wet sponge; the cleaning of installed marble surfaces, work and storage areas, installation tools, machinery, and work aids, using water and cleaning agents;

E. The modification of mixing, material moving, grouting, polishing, and cleaning metal pieces, using a torch, spatula, and heat sensitive adhesive and filler;

F. The removal of marble installation materials and related debris from immediate work area; the storing of marble, installation material tools, machines, and related items; and

G. The provision of assistance to Marble Mason with the following tasks: bending or forming of wire to form metal anchors, using pliers; inserting anchors into holes of marble slab; securing anchors in place with wooden stakes and plaster; selecting marble slab for installation following numbered sequences or drawings; grinding and polishing marble, using abrasives, chemical and/or manual, in machine grinding and/or polishing techniques, under Marble Mason's direction; the moving and positioning of marble;

3. **Terrazzo Finisher**—The work falling within the occupational title of work description for Terrazzo Finisher includes:

A. The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Terrazzo Worker installation of construction materials on

floors, base and/or walls; the moving of terrazzo installation materials, tools, machines, and work devices to area, manually or using wheelbarrow;

B. The supply and mixture of construction materials for Terrazzo Worker; the preparation, mixture by hand, mixture by mixing machine, or transportation of pre-mixed materials and the distribution with shovel, rake, hoe or pail, of all kinds of concrete foundations necessary for mosaic and terrazzo work; the dumping of mixed materials that form base or top surface of terrazzo into prepared installation site, using wheelbarrow; the measuring of designated amounts of ingredients for terrazzo or grout, using graduated containers and scale, following standard formulas and specifications, and the loading of portable mixer using proper means of transport; the mixture of materials according to experience and requests from Terrazzo Worker;

C. The spreading of marble chips or other material over fresh terrazzo surface and the pressing of the material into terrazzo by use of a roller; the application of grout finishes to surfaces of installed terrazzo; the spreading of grout across terrazzo to finish surface imperfections, using trowel; the installation of grinding stones in power grinders, using hand tools; the fine grinding and polishing of the surface of terrazzo, when grout has set, using power grinders; the application of curing agent to installed terrazzo to promote even curing, using brush or sprayer; the cutting of grooves in terrazzo stairs, using power grinder, and the filling of grooves with nonskid material;

D. The modification of mixing, grouting, grinding, and cleaning position and the securing of moisture membrane and wire mesh prior to pouring base materials for terrazzo installation;

E. The washing of the surface of polished terrazzo, using cleaner and water, and the application of sealer, according to manufacturer specifications, using brush; the cleaning of the installation site, and storage areas, tools, machines, and equipment; the removal of Terrazzo Worker materials and related debris from immediate work area; and

F. The provision of assistance to Terrazzo Worker with the following tasks: grinding surfaces of cured terrazzo; using power grinders;

(Y) **Tile Occupational Titles**—This subsection sets forth work descriptions for two (2) occupational titles related to tile work.

1. **Tile Setter**—The work falling within the occupational title of work description for Tile Setter includes:

A. The application of tile to floors, walls, ceilings, stair treads, promenade roof decks, garden walks, swimming pools and all places where tiles may be used to form a finished surface for practical use, sanitary finish or decorative purpose. (Tile includes all burned clay products, as used in the tile industry, either glazed or unglazed, all composition materials; all substitute materials in single units up to and including, fifteen inches by twenty inches by two inches (15" × 20" × 2") (except quarry tiles larger than nine inches by eleven inches (9" × 11")) and all mixtures in the form of cement, plastics and metals that are used as a finished surface.);

B. The cutting and shaping of tile with saws, tile cutters and biters; and

C. The positioning of tile and tapping it with a trowel handle to affix tile to plaster or adhesive base.

2. **Tile Finisher**—The work falling within the occupational title of work description for Tile Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods for Tile Setter to install construction materials on floors and walls; the movement of tiles, tile setting tools, and work devices from storage

area to installation site manually or using wheelbarrow;

B. The supply and mixture of materials for Tile Setter; the supply and mixture of construction materials for Tile Setter; the mixture of mortar and grout accordingly to standard formulas and request from Tile Setter using bucket, water hose, spatulas, and portable mixer; the modification of mixing, grouting, grinding, and cleaning procedures according to type of installation or material used; the supply to Tile Setter of mortar, using wheelbarrow and shovel; the application of grout between joints of installed tile, using grouting trowel; the application of grout; the cutting of installed tile;

C. The removal of excess grout from tile joints with a sponge and scraping of corners and crevices with a trowel; the application of caulk, sealers, acid, steam, or related agents to caulk, seal, or clean installed tile, using various application devices and equipment;

D. The wiping of surfaces of tile after grouting to remove grout residue and polish tile, using non-abrasive materials; the removal of Tile Setter materials and related debris from immediate work area; the cleaning of installation site, mixing and storage tools, and equipment, using water and various cleaning tools; the storing of tile setting material machines, tools, and equipment; and

E. The provision of assistance to Tile Setter to secure position of metal lath, wire mesh, felt paper, Dur/rock or wonderboard prior to installation of tile; and]

[(Z)](T) Truck Driver[-Teamster/Traffic Control Service Driver] (which shall include truck control service driver, truck driver group I, truck driver group II, truck driver group III, and truck driver group IV)—The workers who perform work falling within the occupational title of work description for truck driver[-teamster] includes the operation, repair, and servicing of the following mechanical equipment. This occupational title encompasses several subclassifications, with the title and work description considered in light of whether the public works project pertains to building construction or heavy/highway construction.

1. Building construction. The subtitles falling within the occupational title of work description for truck driver[-teamster], as applicable to building construction, are as follows:

A. Truck control service driver – Applies to workers who perform work including:

(I) The delivery, installation, and pickup of traffic control devices;

(II) The unloading and installation of barricades, plastic channelizer drums, safety cones, and temporary flashing lights not to exceed one hundred fifteen (115) volts;

(III) Regular periodic inspections to assure that traffic control devices are clean, clearly visible, and properly positioned. Inspection and maintenance includes replacing batteries and bulbs in lights, cleaning reflective material and lenses, and repairing or replacing damaged or missing devices when incidental to and part of a public works construction project; and

(IV) Removal of all traffic control devices by loading them on a truck and driving them to a storage yard where they are unloaded;

[A./B. Group I—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks single axle, station wagons, pick-up trucks, material trucks single axle, tank wagon single axle;

[B./C. Group II—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: agitator and transit mix-trucks;

[C./D. Group III—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks tandem axle, articulated dump trucks, material trucks tandem axle, tank wagon tandem axle; and

[D./E. Group IV—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: semi and/or pole trailers, winch, fork and steel trucks, distributor drivers and operators, tank wagon semi-trailer, Insley wagons, dumpsters, halftracks, speedace, euclids, and other similar equipment, A-frame and Derrick trucks, float or low boy, and boom truck.

2. Heavy/highway construction. The subtitles falling within the occupational title work description for truck driver[-teamster], as applicable to heavy/highway construction, are as follows:

A. Truck control service driver – Applies to workers who perform work including:

(I) The delivery, installation, and pickup of traffic control devices;

(II) The unloading and installation of barricades, plastic channelizer drums, safety cones, and temporary flashing lights not to exceed one hundred fifteen (115) volts;

(III) Regular periodic inspections to assure that traffic control devices are clean, clearly visible, and properly positioned. Inspection and maintenance includes replacing batteries and bulbs in lights, cleaning reflective material and lenses, and repairing or replacing damaged or missing devices when incidental to and part of a public works construction project; and

(IV) Removal of all traffic control devices by loading them on a truck and driving them to a storage yard where they are unloaded;

[A./B. Group I—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks single axle, station wagons, pick-up trucks, material trucks single axle, tank wagon single axle;

[B./C. Group II—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: agitator and transit mix-trucks;

[C./D. Group III—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks tandem axle, articulated dump trucks, material trucks tandem axle, tank wagon tandem axle; and

[D./E. Group IV—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: semi-and/or pole trailers, winch, fork and steel trucks, distributor drivers and operators, tank wagon semi-trailer, Insley wagons, dumpsters, halftracks, speedace, euclids, and other similar equipment, A-frame and Derrick trucks, float or low boy, and boom truck.

[3. The workers who perform work falling within the occupational title of traffic control service driver include:

A. The delivery, installation and pickup of traffic control devices;

B. The unloading and installation of barricades, plastic channelizer drums, safety cones and temporary flashing lights not to exceed one hundred fifteen (115) volts;

C. Regular periodic inspections to assure that traffic control devices are clean, clearly visible and properly positioned. Inspection and maintenance includes replacing batteries and bulbs in lights, cleaning reflective material and lenses and repairing or replacing damaged or missing devices when incidental to and part of a public works construction project; and

D. Removal of all traffic control devices by loading them on a truck and driving them to a storage yard where they are unloaded.]

AUTHORITY: section 290.240.2., RSMo [2000] Supp. 2018. Original rule filed Sept. 15, 1992, effective May 6, 1993. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018,

expires May 29, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.010 Definitions

PURPOSE: This rule facilitates the administration of the Professional Employer Act in accordance with sections 285.700–285.750, RSMo. This rule provides definitions of terms in addition to those found in section 285.705, RSMo for the administration of the Act.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule provides definitions of terms, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

(1) “Business experience” (as used in the application and renewal forms) shall mean a narrative detailed description of business-related achievements, credentials, and experience of an individual. Alternatively, a resumé may be used in lieu of a narrative description if it contains, at a minimum, the following information: current contact information, relevant degree(s)/certification(s), and a five- (5-) year work history.

(2) “PEO” (as used in this rule) shall mean a professional employer organization including a PEO Group, a controlling person of a PEO, or a person offering PEO services.

(3) “Secretary” shall mean the secretary of state or his/her designee.

AUTHORITY: section 285.705, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.020 Applications, Interim Operating Permits, and Forms

PURPOSE: This rule provides instructions for full, limited, or group applications along with renewals. It also provides instructions for obtaining an interim operating permit pursuant to section 285.715, RSMo.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule provides instructions for full, limited, or group applications, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

(1) Every application shall conform to the requirements within section 285.715, RSMo including evidence of business experience and an audited financial statement. The audited financial statement may not express any ongoing concerns.

(2) A professional employer organization (PEO), not registered in Missouri, must decline to provide services or notify the secretary within five- (5-) business days of obtaining knowledge that an existing client not based in Missouri has employees or operations in Missouri.

(A) If the PEO does not decline to provide services to the existing client, the PEO must immediately file a limited registration application if the client has less than fifty (50) employees based in Missouri.

(B) The PEO may request an interim operating permit until such application is approved. The secretary may issue an interim operating permit if—

1. The PEO is currently registered or licensed by another state;
2. The PEO makes the request for an interim operating permit in writing indicating in what other states it is licensed or registered;
3. The secretary determines it is in the best interest of the potential covered employees to grant an interim operating permit; and
4. The PEO has filed a limited registration application.

(3) Application and renewal forms may be found on the secretary's website at www.sos.mo.gov/peo.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act
EMERGENCY RULE

15 CSR 30-130.030 Fees

PURPOSE: This rule provides the fee structure for professional employer organization (PEO) applications and renewal.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule provides the fee structure for professional employer organization applications and renewal, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

- (1) The following fees for a PEO shall apply:
 - (A) Full Application - \$500.00;
 - (B) Full Renewal - \$250.00;
 - (C) Limited Application - \$250.00;
 - (D) Limited Renewal - \$250.00;
 - (E) Group Application - \$500.00, plus \$250.00 for each entity in the PEO Group;
 - (F) Group Renewal - \$250.00, plus \$125.00 for each entity in the PEO Group.

AUTHORITY: section 285.725, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.040 Approval of Assurance Organizations

PURPOSE: This rule addresses how an assurance organization may be approved to submit applications and renewals on behalf of their members.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule addresses how an assurance organization may be approved to submit applications and renewals on behalf of their members, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

- (1) An applicant or registered professional employer organization (PEO) may enter into an agreement with an assurance organization approved by the secretary to act on its behalf in accomplishing the provisions of the Professional Employer Organization Act or these rules.
- (2) The approval of an assurance organization by the secretary, to act on behalf of an applicant or registered PEO, does not relieve the applicant or registered PEO from the ultimate responsibility to comply with its obligations pursuant to the Act or these rules.
- (3) An assurance organization desiring to become approved by the secretary shall submit to the secretary—
 - (A) A letter requesting approval;
 - (B) Evidence that the assurance organization is qualified to perform the functions on behalf of the applicant or registered PEO; and
 - (C) An explanation of how the assurance organization will certify each of the criteria and obligations required of the applicant or registered PEO by the Act or rule.
- (4) An assurance organization's approval by the secretary shall remain in effect until such time the secretary, after written notice, terminates the approval, or until such time the assurance organization, by written

notice, withdraws or terminates its status as an approved assurance organization.

(5) An assurance organization that has been approved by the secretary shall notify the secretary annually, in writing, on the anniversary of its approval date, of any material change in the assurance organization's national accreditation and financial assurances during the previous year.

(6) The secretary shall make available to the public a current list of approved assurance organizations, upon request.

(7) The secretary shall notify the assurance organization, in writing, if the secretary becomes aware of any information that indicates that the assurance organization is failing to adequately monitor or provide compliance assistance as intended by the Act.

(8) The assurance organization shall respond to the secretary within thirty (30) days of its receipt of such notification of deficiency. The secretary may terminate an assurance organization's approval based on a finding that the assurance organization is no longer in compliance.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.050 Use of Assurance Organization by Applicant

PURPOSE: This rule sets forth the process for an applicant to use a secretary-approved assurance organization.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule sets forth the process for an applicant to use a secretary approved assurance organization, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency rule is fair to all interested

persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

(1) The secretary shall accept an approved assurance organization's written certification as evidence that an applicant has met, and continues to meet, the criteria and obligations set forth in the Act and rules. The secretary retains the right to independently verify any information or certification provided by the assurance organization, including the ability to verify information contained in the assurance organization's database.

(2) An applicant using an assurance organization, proof of compliance with the assurance organization will satisfy the application requirements of section 285.715, RSMo. Additionally, renewal requirements under section 285.715, RSMo, will be waived provided that the appropriate renewal fee is paid prior to the due date.

(3) An approved assurance organization shall notify the secretary, in writing, no later than ten (10) days after it receives a complaint, or becomes aware of information indicating that an applicant or registered professional employer organization (PEO) they represent is not in compliance with its obligations under the Act.

(4) An approved assurance organization shall notify the secretary, in writing, no later than ten (10) days after it has made a determination that a registered PEO has violated any of the standards of accreditation of the assurance organization or has ceased membership with the assurance organization.

(5) In the event that a registered PEO loses its accreditation, or has ceased membership with an assurance organization, the secretary shall immediately suspend the license of the registered PEO until all necessary information for the appropriate registration sought is filed with the secretary.

(6) In the event that a registered PEO ceases its membership with an assurance organization, the secretary reserves the right to immediately require the registered PEO to submit relevant documents and information in order to comply with the application requirements of the Act.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.060 Proof of Positive Working Capital, Bonds, and Letters

PURPOSE: This rule describes positive working capital, as well as, the posting of bonds and letters of credit.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses.

A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule describes positive working capital as well as the posting of bonds and letters of credit, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

(1) An applicant or registered professional employer organization (PEO) must demonstrate positive working capital. This must be demonstrated in the financial audit that—

(A) Was prepared in accordance with generally accepted accounting principles;

(B) Was audited by an independent certified public accountant without qualification as to the ongoing concern status of the applicant or registered PEO;

(C) Reflects positive working capital; and

(D) Is based on adequate reserves for taxes, insurance, and incurred claims that are not paid.

(2) An applicant who does not have a positive working capital may provide a bond—

(A) With a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000);

(B) Held by a lender authorized to do business in the state of Missouri and found on <https://treasurer.mo.gov/LinkedDepositProgramParticipatingInstitutions/default.aspx>;

(C) Is payable to the Missouri secretary of state; and

(D) States that the surety will provide the secretary written notice sixty (60) days prior to cancelling the bond.

(3) In the alternative, an applicant who does not have a positive working capital may provide a letter of credit with a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000) that—

(A) Is irrevocable;

(B) Is issued by a financial institution authorized to do business in the state of Missouri and which is financially responsible for the amount of the letter;

(C) Does not require examination of the performance of the underlying transaction between the secretary and the applicant;

(D) Is payable to the secretary on sight or within a reasonable period of time after presentation of all required documents; and

(E) Does not include any condition that makes payment to the secretary contingent upon the consent of, or other actions by, the applicant or other party.

AUTHORITY: section 285.725, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.070 Disciplinary Actions

PURPOSE: This rule describes the disciplinary action the secretary may take pursuant to section 285.750, RSMo, and the notice provided to initiate a disciplinary action.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule describes the disciplinary action the secretary may take pursuant to section 285.750, RSMo, and the notice provided to initiate a disciplinary action.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

(1) Upon a decision to take disciplinary action for violation of section 285.750, RSMo, the secretary shall mail such professional employer organization (PEO) written notice, by certified mail, at the address on file with the secretary.

(2) The secretary shall notify a PEO, in writing, by certified mail that the secretary intends to take disciplinary action. The notice shall contain the following information:

(A) The PEO's name and address;

(B) The specific allegations for the disciplinary action; and

(C) Instructions for requesting a hearing.

(3) If disciplinary action is taken against a PEO who registered through an assurance organization, the secretary may provide such notice to the assurance organization. Such notice shall constitute sufficient notice for section 285.750.3, RSMo.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.080 Request for Hearing

***PURPOSE:** This rule prescribes how a professional employer organization (PEO) may request a hearing for any disciplinary action the secretary intends to take.*

***EMERGENCY STATEMENT:** The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.*

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule prescribes how a PEO may request a hearing for any disciplinary action the secretary intends to take, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

*The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.*

(1) When a PEO receives a notice of disciplinary action from the secretary, the PEO may request a hearing. A request for hearing must be received by the secretary no later than thirty (30) calendar days after the PEO receives the notice of discipline. Failure to file a request for hearing within thirty (30) calendar days of receipt of said notice shall constitute waiver of a hearing.

(2) If a PEO does not request a hearing, or fails to request a hearing within thirty (30) calendar days, as outlined in section (1) above, the secretary shall still make findings pursuant to section 285.750.3, RSMo.

(3) A request for hearing must be signed by the PEO or its attorney. It must also contain the name, mailing address, and telephone number of the PEO (or the name, address, and telephone number of the PEO's attorney). The request for hearing must be mailed to the Office of the Secretary of State, PEO Registration, PO Box 1767, Jefferson City, MO 65102.

(4) A PEO may request that a hearing be conducted by telephone. If so, the PEO must include that information in its request for hearing and provide a good telephone number that the PEO will use during the hearing. The PEO is responsible for a good connection if it requests a telephone hearing, and the secretary is not responsible for

any disruption caused by a poor cell phone signal. If a party or witness leaves the phone for any reason, or the connection is disconnected, all such action shall be considered voluntary, and the hearing shall proceed without such party or witness.

***AUTHORITY:** section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.090 Hearings

***PURPOSE:** This rule describes the nature and process of disciplinary hearings conducted by the secretary.*

***EMERGENCY STATEMENT:** The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.*

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule describes the nature and process of disciplinary hearings conducted by the secretary, which will allow the secretary of state to ensure compliance with sections 285.700 to 285.750, RSMo.

*The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri** and **United States Constitutions**. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.*

(1) All disciplinary hearings shall be governed by the administrative hearing process found in Chapter 536, RSMo.

(2) No disciplinary hearing will be held less than thirty (30) days after the secretary receives a written request for a hearing.

(3) Notice of hearing will be provided to the professional employer organization (PEO) by certified mail and shall include the date, time, and place of the hearing.

(4) Hearings will be open to the public and notice of the hearing shall be posted pursuant to Chapter 610, RSMo.

(5) All hearings will be audio recorded unless the PEO requests the

hearing be transcribed by a court reporter. If a PEO requests a court reporter, the PEO is responsible for the cost of the court reporter and all copies of the transcripts.

(6) Oral evidence shall be taken on oath or affirmation. Each party shall have the right to call and examine witnesses, introduce exhibits, and cross-examine witnesses on any relevant issue related to the disciplinary action.

(7) Each party shall provide copies of all exhibits it intends to use at the hearing to the other party and the secretary no later than five (5) working days prior to the hearing.

(8) A list of all documents and exhibits submitted at the hearing shall become part of the record and officially noted in the transcript/recording.

(9) Copies of writings, documents, and records shall be admissible without proof that the originals thereof cannot be produced if it appears by testimony or otherwise that the copy offered is a true copy of the original.

(10) The secretary or his/her representative shall present evidence first. The PEO shall then have the opportunity to present its evidence in the same manner. Each party has the right to rebut the evidence presented and present closing statements.

(11) The secretary shall issue written findings of facts and conclusions of law. Such findings shall include the violations found and the disciplinary action to be taken as authorized under section 285.750, RSMo. Such findings shall be a final adjudication of the matter.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 130—Professional Employer Organization Act

EMERGENCY RULE

15 CSR 30-130.100 Appeals

PURPOSE: This rule describes how a professional employer organization (PEO) may appeal the secretary's findings that disciplinary action should be taken against it.

EMERGENCY STATEMENT: The secretary of state determines that this emergency rule is necessary to preserve a compelling governmental interest.

This emergency rule is necessary to address statutory sections enacted in HB 1719 (2018), specifically sections 285.700 to 285.750, RSMo, which became law on August 28, 2018, and create a framework for the registration and regulation of professional employer organizations in Missouri. A professional employer organization provides comprehensive human resources (HR) solutions for businesses. A person engaged in the business of providing professional employer services shall be subject to registration and regulation under these sections regardless of its use of the term or conducting business as a professional employer organization, staff leasing company, registered staff leasing company, employee leasing company, administrative employer, or any other name.

The secretary of state needs this emergency rule to ensure that professional employer organizations are registered in accordance with the appropriate rules and regulations. This emergency rule describes

how a PEO may appeal the secretary's findings that disciplinary action should be taken against it.

The secretary of state finds there is a compelling governmental interest, which requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The secretary of state believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 30, 2018, becomes effective December 10, 2018, and expires June 7, 2019.

(1) A PEO who receives findings of fact and conclusions of law as provided in 15 CSR 30-130.090 upholding any disciplinary action may seek judicial review as provided for in Chapter 536, RSMo.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2150—State Board of Registration for the Healing Arts Chapter 5—General Rules

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the State Board of Registration for the Healing Arts under section 334.125, RSMo 2016, the board hereby terminates an emergency amendment effective November 20, 2018, as follows:

20 CSR 2150-5.100 Collaborative Practice is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 977).

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2200—State Board of Nursing Chapter 4—General Rules

ORDER TERMINATING EMERGENCY AMENDMENT

By the authority vested in the State Board of Nursing under section 335.036, RSMo Supp. 2018, the board hereby terminates an emergency amendment effective November 20, 2018, as follows:

20 CSR 2200-4.200 Collaborative Practice is terminated.

A notice of emergency rulemaking containing the text of the emergency amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 977-978).

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 4—Fees Charged by the Board of Pharmacy**

EMERGENCY AMENDMENT

20 CSR 2220-4.010 General Fees. The board is amending section (1).

PURPOSE: The proposed emergency amendment would decrease renewal fees for Missouri pharmacy technicians and establish fees for third-party logistic providers and drug outsourcers created by HB 1719.

EMERGENCY STATEMENT: The Missouri General Assembly recently enacted HB 1719 which establishes a new license class for third-party logistics providers (3PLs), effective August 28, 2018. The emergency amendment would establish fees for 3PLs and drug outsourcers to allow these entities to be licensed. Additionally, the Board of Pharmacy is statutorily obligated to enforce and administer the provisions of Chapter 338, RSMo, governing the practice of pharmacy. Pursuant to section 338.070, RSMo, the board shall set the appropriate amount of fees by rule, so that the revenue produced shall not substantially exceed the cost and expense of administering the provisions of Chapter 338, RSMo. Based on the board's five (5)-year projections, the board finds it necessary to reduce renewal fees for Missouri pharmacy technicians to comply with section 338.070, RSMo. Therefore, the board is proposing to decrease 2019 renewal fees for Missouri pharmacy technicians from thirty-five dollars (\$35) to twenty dollars (\$20). Pharmacy technician renewal notices will be mailed on March 1, 2019. Without this emergency amendment, the board will collect more revenue than it is statutorily authorized to collect. The scope of the emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. In developing this emergency amendment, the board has determined that the fee decrease is necessary for the 2019 renewal period to prevent funds from exceeding the maximum fund balance thereby resulting in a transfer from the fund to general revenue as set forth in section 338.070.3, RSMo. Pursuant to section 324.001.10, RSMo, a compelling governmental interest is deemed to exist for the purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the Division of Professional Registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue. The board believes this emergency amendment to be fair to all interested persons and parties under the circumstances. This emergency amendment was filed November 28, 2018, becomes effective December 8, 2018, and expires June 5, 2019.

(1) The following fees are established by the State Board of Pharmacy:

(H) Change of Pharmacy [or], Drug Distributor, Drug Outsourcer or Third-Party Logistics Provider Name Fee	\$ 25
(K) Change of Pharmacy [or], Drug Distributor, Drug Outsourcer or Third-Party Logistics Provider Location Fee	\$ 175
(L) Original Pharmacy Distributor/Wholesale Drug Distributor, Drug Outsourcer or Third-Party Logistics Provider License Fee (includes both temporary and permanent license)	\$ 300
(M) Pharmacy Distributor/Wholesale Drug Distributor, Drug Outsourcer or Third-Party Logistics Provider License Renewal Fee	\$ 450
(U) Pharmacy Technician Annual Renewal Fee	\$ 35
1. Effective from January 1, 2019 to June 1, 2019	\$ 20

AUTHORITY: sections 338.020, 338.035, 338.040, 338.060, 338.070, 338.140, 338.185, 338.220, 338.230, 338.270, 338.280, 338.335, and 338.350, RSMo 2016. This rule originally filed as 4 CSR 2220-4.010. Emergency rule filed July 15, 1981, effective Aug. 3, 1981, expired Nov. 11, 1981. Original rule filed Aug. 10, 1981, effective Nov. 12, 1981. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

EMERGENCY RULE

20 CSR 2220-8.010 Definitions

PURPOSE: This rule adopts definitions for purposes of 20 CSR Chapter 8 governing drug outsourcers and third-party logistics providers.

EMERGENCY STATEMENT: The Missouri General Assembly enacted HB 1719 which establishes new licensure classifications for third-party logistics providers (3PL) and drug outsourcers. The new law is effective August 28, 2018, and would prohibit third-party logistics provider or drug outsourcers from operating in Missouri without the required license. These entities currently provide needed prescription medication to Missouri hospitals, pharmacies, and health care providers. In some instances, the medications may not be available from another source qualified under federal law to provide the medication. In other instances, medication may be needed for emergency use. HB 1719 does not allow a grace period for licensure. Accordingly, the board is proposing to promulgate Chapter 8 via emergency rules to provide for the immediate licensure of 3PLs and drug outsourcers operating in the state. 20 CSR 2220-8.010 would incorporate definitions applicable to proposed Chapter 8.

The board has determined an emergency rule is needed to protect the lives and health of Missouri citizens by ensuring the continued availability and supply of prescription drugs in this state via 3PLs or drug outsourcers. Purchasing medication from an unlicensed 3PL or drug outsourcer is a criminal offense. Absent an emergency rule, the Missouri drug supply would be significantly and detrimentally impacted, including, the availability of medication for emergency use. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Missouri State Board of Pharmacy believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 28, 2018, becomes effective December 8, 2018, and expires June 5, 2019.

(1) Definitions. The following definitions are applicable to 20 CSR 2220 Chapter 8:

(A) "Drug outsourcer" or "Drug outsourcer facility"— An entity registered with the United States Food and Drug Administration pursuant to section 503(B) of the federal Food, Drug and Cosmetic Act, as amended by the Drug Quality and Security Act (21 section USC 353b);

(B) “Drug related device”—An article that is not considered a prescription drug under federal law, but which meets the definition of a device as provided in 21 U.S.C. 321(h) and 21 U.S.C. 360j(e);

(C) “Drug” or “Prescription drug”—A legend drug as defined by section 338.330, RSMo; and

(D) “Third-party logistics provider” or “3PL”—An entity that provides or coordinates warehousing, or other logistics services of a prescription drug or drug-related device on behalf of a manufacturer, wholesale distributor, or dispenser of such a product, but does not take ownership of the product, nor has responsibility to direct the sale or disposition of the product. A third-party logistics provider license is required for entities conducting 3PL activities that are physically located in this state or shipping drug products into Missouri.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2220—State Board of Pharmacy Chapter 8—Third-Party Logistic Providers and Drug Outsourcer Facilities

EMERGENCY RULE

20 CSR 2220-8.020 Licensing Requirements

PURPOSE: This rule establishes licensing requirements and procedures for drug outsourcers and third-party logistics providers.

EMERGENCY STATEMENT: The Missouri General Assembly recently enacted HB 1719 which establishes new licensure classifications for third-party logistics providers (3PL) and drug outsourcers. The new law is effective August 28, 2018, and would prohibit third-party logistics providers and drug outsourcers from operating in Missouri without the required license. These entities currently provide needed prescription medication to Missouri hospitals, pharmacies, and health care providers. In some instances, the medications may not be available from another source qualified under federal law to provide the medication. In other instances, medication may be needed for emergency use. HB 1719 does not allow a grace period for licensure. Accordingly, this rule would establish provisions for the immediate licensure of 3PLs and drug outsourcers operating in this state.

The board has determined an emergency rule is needed to protect the lives and health of Missouri citizens by ensuring the continued availability and supply of prescription drugs in this state via 3PLs or drug outsourcers. Absent an emergency rule, 3PLs and drug outsourcers would be required to terminate activities which would significantly and detrimentally impact Missouri’s drug supply, including, the availability of medication for emergency use. Significantly, purchasing medication from an unlicensed 3PL or drug outsourcer is a criminal offense. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Pharmacy believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 28, 2018, becomes effective December 8, 2018, and expires June 5, 2019.

(1) No person or entity may act as a third-party logistics provider (3PL) or a drug outsourcer unless the person/entity has obtained the applicable 3PL or drug outsourcer license from the board. A separate license is required for each facility owned or operated as a 3PL or drug outsourcer.

(A) Applicants must submit a completed application to the board with the applicable fee along with the following information:

1. The name, full business address, e-mail address, and telephone number of the applicant and the facility where third-party logistics provider services or drug outsourcer activities will be provided, if different;

2. All trade or business names used by the licensee;

3. For 3PL applicants, the name, address, telephone number, and e-mail address of a manager-in-charge that meets the requirements of 20 CSR 2220-8.045 along with his/her employment history for the previous seven (7) years and a notarized manager-in-charge affidavit;

4. For drug outsourcer applicants, the name, address, telephone number, and e-mail address of a pharmacist responsible for supervising the facility who holds a current and active pharmacist license issued by a U.S. state or territory. If the designated pharmacist does not have a current and active Missouri pharmacist license, official verification must be submitted from the board of pharmacy or equivalent pharmacist governmental licensing agency verifying that the designated pharmacist holds a current and active pharmacist license issued by such state/territory;

5. The type of ownership or legal structure; and

6. The name(s) of the owner, operator, or both, of the licensed entity, including:

A. If a sole proprietorship, the full name of the sole proprietor and the name of the business entity. The sole proprietor must sign the application;

B. If a partnership or limited liability partnerships, the name of each partner and the name of the partnership. A partner or general partner must sign the application; or

C. If a corporation, the name of the corporate president, vice president, secretary, treasurer, chief executive officer, board of directors, and senior vice presidents, or their equivalents, the corporate name(s), and the name of the state of incorporation. An officer of the corporation must sign the application.

(B) A license will not be issued to a facility located in Missouri until the board or its duly authorized agent has inspected the premises of the new location and approved it. For nonresident applicants, an inspection report must be submitted as required by 20 CSR 2220-8.030.

(C) All third-party logistics provider and drug outsourcer licenses will expire on the date specified by the director of the Division of Professional Registration by appropriate rule. Once issued, licenses must be conspicuously posted in the licensed facility where 3PL or drug outsourcer operations are conducted.

(D) A 3PL or drug outsourcer license will not be issued to any location where drugs are stored or maintained that is in a residence or that shares an address and/or physical space with a business not related to distributing prescription drugs or drug-related devices, or not licensed and regulated by the state of Missouri.

(E) An application will become null and void if the applicant fails to complete the process for licensure within six (6) months after the application is received by the board.

(F) All application fees are non-refundable.

(2) Change of Ownership. A third-party logistics provider or drug outsourcer license shall become void on the effective date of any change of ownership. The subsequent owners must obtain a new license from the board prior to operating as a third-party logistics provider or drug outsourcer in this state, provided a temporary license may be issued to the new ownership until a new license is granted as outlined in section (5). Facilities located in Missouri must be inspected by the board prior to issuing a new license.

(A) A change of ownership of a sole proprietorship is deemed to

have occurred when—

1. The business is sold and the sale becomes final;
2. The proprietor enters into a partnership with another individual or business entity; or
3. The proprietor dies, provided, the proprietor's estate may continue to operate the third-party logistics provider or drug outsourcer facility for a period of no more than one (1) year if all appropriate fees are paid.

(B) If a corporation owns a third-party logistics provider or drug outsourcer, a new license is not required if the owners of the stock change. If a limited liability partnership or a limited liability company owns a third-party logistics provider or drug outsourcer, a new license is not required if the partners or members of the company change, as long as the partnership or company is not dissolved by the change. Written notice must be filed with the board within thirty (30) days after a change of twenty-five percent (25%) or more in the ownership of corporation stock, or the partners of a limited liability partnership, or the members of a limited liability company. The required notification must be in writing and notarized.

(C) When a sole proprietorship, corporation, limited liability partnership, or limited liability company begins or ceases ownership of a third-party logistics provider or drug outsourcer, a new license must be obtained regardless of the relationship between the previous and subsequent owners.

(3) Change of Location. A third-party logistics provider or drug outsourcer license is only valid for the address listed on the license issued by the board. If the location of a third-party logistics provider or drug outsourcer facility changes either within the existing facility or to a new facility, a change of location application must be submitted to the board with the applicable fee. A Missouri located facility may not open for business at the new location until the board or its duly authorized agent has inspected the premises of the new location and approved it. Once approved, the board will issue a license for the new location with the same license number as the previous license. A license will remain valid if the facility address changes but not the location, in such case an amended license will be issued on request without charge.

(4) Change of Name. Licensees may only conduct 3PL or drug outsourcing activities in the state of Missouri under the name(s) licensed by the board. If a name change occurs, a change of name application must be submitted to the board with the applicable fee within three (3) business days of the change. The facility's license will be reissued under the new name with the same license number. A change of ownership application is required if the licensee is changing corporate or legal structure or otherwise changing ownership.

(5) Temporary Licenses. The board may grant a temporary license to an applicant, subject to any terms or conditions the board deems necessary or appropriate, to allow the business to continue operating in Missouri until the board makes a determination on the applicant's license application. Unless otherwise authorized by the board, temporary licenses are valid for one (1) year or until final action by the board, whichever is less.

(A) The board will consider the following in determining whether to issue a temporary license:

1. Any conduct or activity that constitutes grounds for denial or discipline under section 338.055, RSMo;
2. The applicant's compliance with state and federal drug and/or distribution laws;
3. Any failure to produce records or information requested by the board or failure to provide full and truthful information;
4. Failure to cooperate with any board request or inquiry related to the application;
5. Current or pending disciplinary action by any federal, state, or local government against any license or registration currently or previously held by the applicant;
6. Compliance with licensing requirements under previously granted licenses, if any; and

7. Any other factor relevant to the applicant's ability to safely or properly operate in Missouri.

(B) A notification letter will be sent to the applicant once a decision is made on the applicant's permanent license. The temporary license will be considered void ten (10) days after board notification is sent to the applicant.

(C) Applicants issued a temporary license may conduct business in this state as a third-party logistics provider or, for drug outsourcer applicants, as a drug outsourcer as long as all state and federal laws governing provider/drug outsourcing activities are followed and no action that results in professional misconduct as outlined in section 338.055, RSMo, occurs.

(6) A nonresident third-party logistics provider or drug outsourcer licensed by the board must designate a registered agent in Missouri for service of process. Any licensee that does not designate a registered agent shall be deemed to have designated the Missouri secretary of state to be its true and lawful attorney for service of process in any action or proceeding against the third-party logistics provider or drug outsourcer growing out of or arising from such 3PL or drug outsourcing services. Service of process shall be accomplished as authorized by law.

(7) Licensure Exemptions. A Missouri 3PL or drug outsourcer license is not required for the following activities—

(A) The sale, purchase, transfer, or trade of a drug or an offer to sell, purchase, transfer, or trade a drug for emergency administration to an individual patient if a delay in therapy would negatively affect a patient outcome. Prior to the distribution, the unlicensed entity or proposed recipient must file a written request with the board to approve the emergency transaction. The amount sold, purchased, transferred, or traded shall not exceed one percent (1%) of the 3PL's or drug outsourcer's total gross prescription sales or, if prescriptions are not sold, one percent (1%) of the 3PL's/drug outsourcer's total drug purchases;

(B) The storage or distribution of drugs by a local, state, or federal facility that are received from the Strategic National Stockpile or the state stockpile for the purpose of providing those drugs in an emergency situation as authorized by a state or federal agency; and

(C) The sale, purchase, transfer, or trade of a prescription drug by a 3PL to alleviate a temporary shortage of a prescription drug that is in limited supply or unavailable due to delays in or interruption of supply. Drugs sold, purchased, transferred, or traded pursuant to this section shall only be sold, purchased, transferred, or traded directly from an importer or manufacturer authorized by or registered with the United States Food and Drug Administration (FDA) to import or manufacture the drug that is unavailable or in short supply. In addition, sales, purchases, transfers, or trades shall be limited to the period of shortage and to the drug that is unavailable or in limited supply. Documentation of FDA authorization or registration shall be maintained in the 3PL's records.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2220—State Board of Pharmacy Chapter 8—Third-Party Logistic Providers and Drug Outsourcer Facilities

EMERGENCY RULE

20 CSR 2220-8.030 Nonresident Third-Party Logistics Providers/Drug Outsourcer Facilities

PURPOSE: *This rule establishes additional guidelines for non-resident third-party logistics providers and drug outsourcer applicants.*

EMERGENCY STATEMENT: *The Missouri General Assembly recently enacted HB 1719 which establishes new licensure classifications for third-party logistics providers (3PL) and drug outsourcers. The new law is effective August 28, 2018, and would prohibit non-resident third-party logistics providers and drug outsourcers from operating in Missouri without the required license. These entities currently provide needed prescription medication to Missouri hospitals, pharmacies, and health care providers. In some instances, the medications may not be available from another source qualified under federal law to provide the medication. In other instances, medication may be needed for emergency use. HB 1719 does not allow a grace period for licensure. Accordingly, this rule would establish provisions for the immediate licensure of non-resident 3PLs and drug outsourcers.*

The board has determined an emergency rule is needed to protect the lives and health of Missouri citizens by ensuring the continued availability and supply of prescription drugs in this state via non-resident 3PLs or drug outsourcers. Absent an emergency rule, non-resident 3PLs and drug outsourcers would be required to terminate activities which would significantly and detrimentally impact Missouri's drug supply, including, the availability of medication for emergency use. Significantly, purchasing medication from an unlicensed 3PL or drug outsourcer is a criminal offense. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Pharmacy believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 28, 2018, becomes effective December 8, 2018, and expires June 5, 2019.

(1) Nonresident third-party logistics (3PL) providers or drug outsourcer facilities may not act as a third-party logistics provider or a drug outsourcer or ship, mail, or deliver legend drugs, or for drug outsourcers, compounded drugs into Missouri without first obtaining the applicable license from the board. Nonresident third-party logistics providers or drug outsourcers may be licensed by reciprocity if they—

(A) Possess a valid 3PL or drug outsourcer license or an equivalent license that is in good standing in the state or foreign jurisdiction in which they are located that was issued pursuant to legal standards comparable to those which must be met by a Missouri third-party logistics provider or drug outsourcer; and

(B) Are located in a state or foreign jurisdiction which extends reciprocal treatment to a third-party logistics provider of this state or, for drug outsourcer applicants, a drug outsourcer of this state.

(2) Except as otherwise provided in this rule, applicants for a nonresident third-party logistics provider or drug outsourcer license must comply with 20 CSR 2220-8.020, including, but not limited to, all application, change of ownership, change of location, and change of name requirements. In addition to the requirements of 20 CSR 2220-8.020, non-resident applicants must also submit the following with their application:

(A) A copy of the applicant's 3PL or drug outsourcer license or its equivalent from the state or foreign jurisdiction where the nonresident third-party logistics provider or drug outsourcer facility is located;

(B) An official verification from the state or foreign jurisdiction where the third-party logistics provider or drug outsourcer facility is located verifying that the applicant holds a current and active third-party logistics provider license or its equivalent, for drug outsourcer applicants, a drug outsourcer license or its equivalent issued by such

state or foreign jurisdiction;

(C) A copy of the applicant's most recent inspection report or findings from the applicant's resident board of pharmacy or its equivalent state/foreign regulatory body. For 3PL applicants, the inspection must have occurred within the last twenty-four (24) months. For drug outsourcer applicants, the inspection must have occurred within the last eighteen (18) months. If a state inspection is unavailable, an inspection by the Missouri Board of Pharmacy, the United States Food and Drug Administration (FDA) or the National Association of State Boards of Pharmacy must be submitted or a similar inspection by an entity approved by the board;

(D) If controlled substances will be shipped into Missouri, a copy of the applicant's federal controlled substance registration and, if applicable, a copy of the applicant's state controlled substance registration from the state where the applicant is located; and

(E) If requested by the board, any inspection reports, correction active responses, warning notices, deficiency notices, or any other related state, federal, or foreign jurisdiction report or notice related to the applicant's handling, distribution, manufacturing, or sale of medication.

AUTHORITY: *sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.*

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

EMERGENCY RULE

20 CSR 2220-8.040 Standards of Operation (Drug Outsourcers)

PURPOSE: *This rule provides standards of operation for drug outsourcers licensed by the board.*

EMERGENCY STATEMENT: *The Missouri General Assembly recently enacted HB 1719 which establishes a new license classification for drug outsourcers, effective August 28, 2018. The board has simultaneously filed emergency rules to license drug outsourcers. Drug outsourcers are authorized by federal law to engage in sterile compounding which is the act of compounding a drug that must be sterile and free of harmful microorganisms prior to administration to a patient. Sterile compounding requires the use of aseptic techniques in a properly controlled environment to eliminate the risk of preparation contamination. The United States Food and Drug Administration has indicated: "Although compounded drugs can serve an important need, they pose a higher risk to patients than FDA-approved drugs. Compounded drug products are not FDA-approved which means they have not undergone FDA premarket review for safety, effectiveness, and quality."*

In 2012, the FDA reported that a Massachusetts sterile compounding facility shipped contaminated injectable drug products to patients and healthcare practitioners that caused a nationwide fungal meningitis outbreak that resulted in more than sixty (60) deaths and seven hundred fifty (750) cases of infection. Since 2012, the FDA reported it has "investigated numerous outbreaks and other serious adverse events, including deaths, associated with compounded drugs that were contaminated or otherwise compounded improperly" since the fungal meningitis outbreak.

The board has determined this emergency rule is needed to protect Missouri patients by establishing standards of operations for drug outsourcers to ensure medication dispensed into Missouri is safe, effective and not adulterated, contaminated or otherwise harmful to Missouri citizens. Absent an emergency rule, no state standards of operation would be in effect for drug outsourcers which could endanger the lives of Missouri patients given the complex and specialized nature of sterile compounding. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Pharmacy believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 28, 2018, becomes effective December 8, 2018, and expires June 5, 2019.

(1) Drug outsourcers shall comply with all applicable state and federal laws governing drug outsourcing activities, including, but not limited to, controlled substance laws and the federal Food, Drug and Cosmetics Act, as amended by the Drug Quality and Security Act.

(A) Except as otherwise required by federal law, drug outsourcers must comply with all applicable current good manufacturing practices (cGMPs) required by federal law and the United States Food and Drug Administration.

(B) A separate Missouri drug distributor license is required if a drug outsourcer is engaged in any additional drug distribution activities as defined by Chapter 338, RSMo, other than drug outsourcing. A pharmacy license is required if medication will be dispensed pursuant to a patient-specific prescription.

(2) No drug outsourcer license will be issued unless the facility is under the direct supervision of a pharmacist who has been designated with the board and who will be responsible for facility operations and ensuring compliance with state and federal law. The pharmacist must hold a current and active pharmacist license issued by Missouri or another U.S. state/territory.

(A) Drug outsourcing activities must be conducted at all times under the supervision of the designated pharmacist. The pharmacist must be actively involved in and aware of the daily operations of the outsourcing facility and must ensure that policies and procedures governing drug outsourcing operations are current and accurate.

(B) In the event the pharmacist designated with the board to supervise the facility changes, the drug outsourcer may not continue operations until a new pharmacist is named to supervise the facility. A change of pharmacist application must be submitted to the board with the applicable fee within fifteen (15) calendar days after a new pharmacist is designated to supervise.

(3) Sterile compounding and drug outsourcing activities must be safely and accurately performed at all times to ensure that only drugs of appropriate quality are distributed. No counterfeit, misbranded, expired, or adulterated drug may be compounded, distributed, sold, or brokered by or on behalf of a drug outsourcer.

(A) All individuals employed or engaged in sterile compounding or drug outsourcer activities must have sufficient education, training, or experience to perform the duties assigned. A list must be maintained of all individuals engaged in sterile compounding or in drug outsourcer activities with a description of the individual's duties.

(B) Drug outsourcers located in this state may only purchase or receive legend drugs and/or drug related devices from an entity licensed as a Missouri drug distributor, third-party logistics provider, drug outsourcer, or pharmacy.

(C) Medication held for distribution must be stored in a secure area where only authorized personnel have access to them. A list of all individuals who have independent access to drug storage areas

must be maintained. The list must be maintained for three (3) years and must be readily retrievable on request of the board or the board's authorized designee.

(D) The outside shipping container of received medication and product ingredients must be visually examined for identity and for container and content integrity to prevent the acceptance or distribution of any contaminated, adulterated, or otherwise unfit medication. Any prescription drug or drug ingredient whose immediate or sealed outer container or sealed secondary container has been opened, used, or improperly compromised must be quarantined and physically separated from the facility's active inventory.

(E) Medication shipped for distribution or further use must be carefully inspected prior to shipping/distribution for identity and to ensure no contaminated, adulterated, or misbranded drug or compounded preparation is distributed. Licensees shall maintain and follow security procedures for delivering drugs and compounded preparations from the facility to the destination site.

(F) Drug outsourcers must develop and implement written policies and procedures to ensure the safe and appropriate delivery of prescription drugs within the temperature requirements recommended by the manufacturer or the *United States Pharmacopeia* (USP).

(G) For returned medication, licensees must consider the conditions under which the drug has been held, stored, or shipped, the condition of the drug and its container/carton and any other relevant factor that may reflect on the drug's fitness for further use or distribution. If the conditions under which medication has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug must be destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity.

(H) Drug products must be labeled as required by the manufacturer and state and federal law, including, section 338.059.2, RSMo.

(4) Facility Standards. The following standards are applicable to all drug outsourcing facilities:

(A) Drug outsourcing facilities must be securely maintained at all times to prevent unauthorized access to the facility, drugs, or drug storage areas. Additionally, the facility must be equipped with a security system that will provide suitable protection against theft and diversion, including, electronic theft or diversion. All facilities must be equipped with an alarm system to detect unauthorized entry after hours.

(B) Appropriate sewage disposal and a hot and cold water supply must be available.

(C) Waste and hazardous materials must be handled and disposed of in compliance with applicable state and federal law.

(D) Drug outsourcing facilities must be free from insects, vermin, and animals of any kind, except for service animals as defined by the Americans with Disabilities Act (ADA).

(E) Medication must be properly stored and maintained in a thermostatically controlled area within temperature and humidity requirements as provided in the FDA approved drug product labeling or the *United States Pharmacopeia* (USP).

(F) Temperatures in drug storage areas must be recorded and reviewed at least once each day the facility is in operation. Alternatively, a continuous temperature monitoring system may be used if the system maintains ongoing documentation of temperature recordings that alerts the pharmacist designated with the board for supervising the facility or alerts designated facility staff when temperatures are outside of the required range.

(G) No outdated, misbranded, or adulterated drugs or devices may be dispensed or maintained within the facility's active inventory, including prescription and related nonprescription items. Outdated, misbranded, or adulterated medication must be quarantined in a clearly identified segregated area and maintained separately from drugs intended for distribution or compounding.

(H) Medication may not be stored on the floor. Drug products must be raised above floor level and placed on a pallet or similar

device.

(I) Drug outsourcers must report any recall of medication or a sterile preparation that is, or suspected to be, misbranded, adulterated, or non-sterile. Recalls must be reported to the board in writing within seven (7) days of a recall.

(5) Policies and Procedures. Drug outsourcers must maintain and follow current and accurate policies and procedures governing all aspects of the facility's drug outsourcing activities. Policies and procedures may be physically or electronically maintained at the facility, provided the policies/procedures are immediately retrievable at the request of the board or the board's authorized designee.

(6) Record-Keeping. Drug outsourcer records must be accurately maintained in compliance with state and federal law. Additionally, licensees must maintain inventories and records of all transactions regarding the receipt, distribution, compounding, or other disposition of prescription drugs or sterile preparations. Unless otherwise provided by law, records required by Chapter 338 or this rule must be maintained for three (3) years. Records may be manually or electronically maintained, provided the record is readily retrievable and available for inspection, photographing, or duplication at the request of the board or the board authorized designee or at the request of authorized federal, state, or local law enforcement officials. Records maintained offsite and not electronically retrievable at the drug outsourcer facility must be made available for inspection within two (2) working days of a request by the board or an authorized board designee.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2220—State Board of Pharmacy Chapter 8—Third-Party Logistic Providers and Drug Outsourcer Facilities

EMERGENCY RULE

20 CSR 2220-8.045 Standards of Operation (Third-Party Logistics Providers)

PURPOSE: This rule provides standards of operation for third-party logistic providers licensed by the board.

EMERGENCY STATEMENT: The Missouri General Assembly recently enacted HB 1719 which establishes a new license class for third-party logistics providers (3PLs), effective August 28, 2018. The Board has simultaneously filed emergency rules to license 3PLs. The proposed rule would protect Missouri patients by establishing standards of operations for 3PLs to ensure medication is properly handled and distributed in Missouri and to prevent distribution of any adulterated, illegitimate, or contaminated medication. Absent an emergency rule, no state standards of operation would be in effect for 3PLs which could endanger the lives of Missouri patients and threaten the integrity of Missouri's medical supply. As a result, the Missouri State Board of Pharmacy finds there is an immediate danger to the public health, safety, and/or welfare and a compelling governmental interest that requires this emergency action. A proposed rule, which covers the same material, is published in this issue of the

Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri State Board of Pharmacy believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed November 28, 2018, becomes effective December 8, 2018, and expires June 5, 2019.

(1) Third-party logistics providers (3PL) shall comply with all applicable state and federal law governing 3PL activities, controlled substances and drug distribution/handling, including, but not limited to, the federal Food, Drug and Cosmetics Act, as amended by the federal Drug Supply Chain Security Act (20 USC section 351 et seq).

(2) Manager-In-Charge. No third-party logistics provider license will be issued unless the facility is under the direct supervision of a manager-in-charge who has been designated with the board and who will be responsible for facility operations and ensuring compliance with state and federal law. The designated manager-in-charge must have appropriate education or experience to perform the duties assigned. At a minimum, the manager-in-charge must have at least two (2) years of education/experience in third-party logistics provider or drug distribution standards of operation or legal/compliance requirements. Education beyond a high school diploma or its equivalent may be used to meet these minimum requirements.

(A) 3PL activities must be conducted under the supervision of the designated manager-in-charge. The manager-in-charge must be actively involved and aware of the daily operations of the third-party logistics provider and must be physically present at the third-party logistics provider facility during normal business hours, except for absences due to illness, scheduled vacations, or other authorized absence. The manager-in-charge must ensure that policies and procedures governing the third-party logistics provider's operations are current and accurate.

(B) In the event the manager-in-charge designated with the board changes, the third-party logistics provider may not continue operations until a new manager-in-charge is named. A change of manager-in-charge application must be submitted to the board with the applicable fee within fifteen (15) calendar days after the new manager-in-charge is designated.

(C) In addition to the manager-in-charge, all individuals employed or engaged in third-party logistics operations must have sufficient education, training, or experience to perform the duties assigned. A list must be maintained of all managers or other individuals in charge of 3PL activities or drug distribution, storage and handling, and a description of the individual's duties.

(3) Facility Standards. The following requirements are applicable to all 3PL facilities:

(A) All state and federal 3PL, controlled substance and drug distribution licenses or registrations must be current and accurate. The facility's Missouri 3PL license must be conspicuously posted at the 3PL facility licensed by the board;

(B) 3PL facilities must be of suitable size and construction to allow proper cleaning, maintenance, and facility operations. Appropriate sewage disposal and a hot and cold water supply must be available. The outside perimeter of the premises must be well-lit; and

(C) 3PL facilities must be securely maintained at all times to prevent unauthorized access to the facility, drugs, or drug storage areas. Additionally, 3PL facilities must be equipped with a security system that will provide suitable protection against theft and diversion, including, electronic theft or diversion. All facilities must be equipped with an alarm system to detect entry after hours.

(4) Drug Storage and Distribution. 3PL activities must be safely and accurately performed at all times in compliance with applicable state and federal law. Only drugs of appropriate quality may be distributed. No counterfeit, outdated, misbranded, expired, or adulterated drug may be distributed, sold, or brokered by or on behalf of a 3PL.

(A) Appropriate lighting, sanitation, ventilation, and humidity must be maintained in all areas where drugs are stored or distributed. Aisles, walkways, and shelves in drug storage areas must be clear of debris, dirt, and filth. Dust must be kept at low levels through adequate ventilation or proper cleaning procedures.

(B) Waste and hazardous materials must be handled and disposed of in compliance with applicable state and federal law.

(C) Drug storage areas must be free from insects, vermin, and animals of any kind, except for service animals as defined by the Americans with Disabilities Act (ADA).

(D) Drugs must be properly stored and maintained in a thermostatically controlled area within temperature and humidity requirements as provided in the FDA approved drug product labeling or the *United States Pharmacopeia* (USP).

(E) Temperatures in drug storage areas must be recorded and reviewed at least once each day the facility is in operation. Alternatively, a continuous temperature monitoring system may be used if the system maintains ongoing documentation of temperature recordings that alerts the manager-in-charge or designated facility staff when temperatures are outside of the required range.

(F) 3PLs located in this state may only purchase or receive legend drugs and/or drug related devices from an entity licensed as a Missouri drug distributor, third-party logistics provider, or drug outsourcer.

(G) No outdated, misbranded, or adulterated drugs or devices may be dispensed or maintained within the facility's active inventory, including prescription and related nonprescription items. Outdated, misbranded, or adulterated medication must be quarantined in a clearly identified segregated area and maintained separately from drugs intended for distribution or being processed for distribution.

(H) No third-party logistics provider with physical facilities located in the state of Missouri shall knowingly purchase or receive legend drugs and/or drug related devices from a wholesale drug distributor, third-party logistics provider, drug outsourcer, or pharmacy not licensed or registered by the board.

(I) Drugs held for distribution must be stored in a secure area where only authorized personnel have access to them. A list of all individuals who have independent access to drug storage areas must be maintained. The list must be maintained for three (3) years and must be readily retrievable on request of the board or the board's authorized designee.

(J) Medication may not be stored on the floor. Drug products must be raised above floor level and placed on a pallet or similar device.

(K) The outside shipping container of received medication must be visually examined for identity and for container and content integrity to prevent the acceptance or distribution of any contaminated, adulterated, or otherwise unfit medication. Any prescription drug whose immediate or sealed outer container or sealed secondary container has been opened, used, or improperly compromised must be quarantined and physically separated from the facility's active inventory.

(L) Drugs shipped for distribution or further use must be carefully inspected prior to shipping/distribution for identity and to ensure prescription drugs that have been damaged in storage or held under improper conditions are not distributed. Licensees shall maintain and follow security procedures for delivering drugs from the facility to the destination site.

(M) Drug products must be labeled as required by the manufacturer and state and federal law, including, section 338.059.2, RSMo.

(N) Third-party logistics providers must develop and implement written policies and procedures to ensure the safe and appropriate delivery of prescription drugs within the temperature requirements recommended by the manufacturer or the *United States Pharmacopeia* (USP).

(O) For returned medication, licensees must consider the conditions under which the medication has been held, stored, or shipped, the condition of the drug and its container/carton and any other relevant factor that may reflect on the drug's fitness for further use or distribution. If the conditions under which a prescription drug has

been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug must be destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity.

(P) Licensees shall file a written or electronic report with the board within seventy-two (72) hours after discovery of:

1. Any suspected criminal activity related to or diversion of a prescription drug or device; and

2. Any real or suspected counterfeit, contraband, or illegitimate prescription drug or drug-related device. The report must include the name of the drug, quantity, and lot number(s). Recalls initiated by the Food and Drug Administration (FDA) or by a supplier licensed with the state of Missouri do not have to be reported, unless otherwise required by state and federal law.

(5) Policies and Procedures. 3PLs must maintain and follow current and accurate policies and procedures governing all aspects of the facility's 3PL activities. Policies and procedures must be physically or electronically maintained at the facility, provided the policies/procedures are immediately retrievable at the request of the board or the board's authorized designee.

(6) Agents or employees of a licensed third-party logistics provider may have legend drugs in their custody if they are acting in the usual course of business or employment and their names and addresses and the addresses of all sites where drugs are stored have been provided to the board. Drugs stored and transported by agents or employees of a third-party logistics provider must be maintained in accordance with manufacturer or USP guidelines and must be free of contamination, deterioration, or adulteration.

(7) Record-Keeping. 3PL records must be accurately maintained in compliance with state and federal law. Additionally, licensees must maintain inventories and records of all transactions regarding the receipt, distribution, or other disposition of prescription drugs or prescription drug-related devices.

(A) The following records must be maintained:

1. The date drugs or drug-related devices are received or distributed;

2. The identity and quantity of drugs or drug-related devices received, distributed, or disposed of;

3. The identity of any suppliers of prescription drugs or drug-related items, including the name and principal address of the seller/transferor and the address of the location where the drug/drug-related item was shipped from;

4. The name and address of any recipients of prescription drugs or drug-related items; and

5. Any records required by state and federal law.

(B) Unless otherwise provided by law, records required by Chapter 338 or this rule must be maintained for three (3) years. Records may be manually or electronically maintained, provided the record is readily retrievable and available for inspection, photographing, or duplication at the request of the board or the board's authorized designee or at the request of authorized federal, state, or local law enforcement officials. Records maintained offsite and not electronically retrievable at the 3PL facility must be made available for inspection within two (2) working days of a request by the board or an authorized board designee.

(8) Exemptions. At its discretion, the board may grant an exemption to the facility requirements of this rule for a time period designated by the board if such exemption is not contrary to law and the exemption will provide equal or greater protection of the public safety, health, or welfare. Exemption requests must be submitted in writing and identify the specific exemption requested, the grounds for exemption, the requested exemption length, and proposed procedures or safeguards for protecting the public safety, health, or welfare if the exemption is approved.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. A proposed rule covering this same material is published in this issue of the Missouri Register.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo 2016.

EXECUTIVE ORDER 18-10

WHEREAS, Executive Order 17-02 was signed on January 9, 2017, which adopted a code of conduct for certain state employees of the executive branch; and

WHEREAS, certain provisions of the order are in need of revision and improvement; and

WHEREAS, this administration wishes to renew the commitment to upholding the highest ethical standards for employees of the executive branch; and

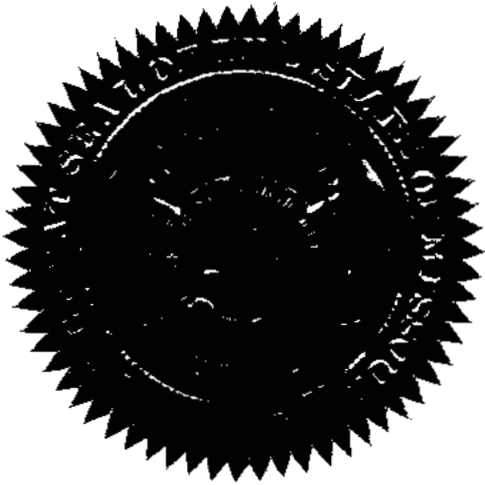
WHEREAS, integrity in state government is vitally important to ensure that the needs of our state's citizens are being served:

NOW THEREFORE, I, MICHAEL L. PARSON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, including the provisions of Section 105.969, RSMo, do hereby order that state employees of the executive branch (except employees of elected officials who are required by law to establish codes of conduct for their offices) adhere to this code of conduct:

1. No state employee of the executive branch shall knowingly solicit or accept any gift from a lobbyist. The term "gift" shall have the same meaning as the term "expenditure" in Section 105.470(3), RSMo. The term "lobbyist" shall have the same meaning as in Section 105.470(6), RSMo.
2. No employee of the Office of the Governor shall act as an executive lobbyist until the end of the administration in which he or she served. The term "executive lobbyist" shall have the same meaning as in Section 105.470(2), RSMo.
3. No state employee of the executive branch shall participate in a proceeding or decision in which the state employee's impartiality might reasonably be questioned due to the state employee's personal or financial relationship with a participant in the proceeding.
4. No state employee of the executive branch shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the State of Missouri or any state agency if such arrangement is inconsistent with the conscientious performance of the employee's official duties.
5. Any state employee of the executive branch who violates this Order is subject to disciplinary action including, but not limited to, termination of employment.
6. This Order is intended to provide guidance to state employees of the executive branch in matters of employment-related conduct and is not intended to fully prescribe the proper conduct of employees nor to create any right or benefit enforceable by law. The failure to prohibit an employee action in this Order does not constitute approval of the action. This Order is intended as a supplement to the provisions in law that govern employee conduct, and shall not be construed to decrease the requirements in law. State agency directors are responsible for promoting and enforcing this Order among the employees of their agencies in accordance with their respective agency procedures, and shall supplement it with additional provisions to meet the needs of their agencies. No state agency or appointing authority shall discharge, threaten, or otherwise retaliate against an employee for reporting in good faith any violation of this Order.


This Order shall supersede Executive Order 17-02 and any other previous Order that is inconsistent with the terms contained herein.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 20th day of November, 2018.




MICHAEL L. PARSON
GOVERNOR

ATTEST:


JOHN R. ASHCROFT
SECRETARY OF STATE

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 3—Capital Improvement and Maintenance
Program

PROPOSED AMENDMENT

1 CSR 30-3.025 *[Methods of Management/Construction] Procurement of Construction and Management Services.* The Division of Facilities Management, Design and Construction is amending the title and purpose statement of this regulation, moving the information found in section (5), deleting sections (7) and (9), renumbering the remaining sections and adding new sections.

PURPOSE: This amendment deletes provisions regarding the use of best value contracting and construction manager at-risk. This amendment also adds information regarding contractor responsibility

currently found in 1 CSR 30-3.060, which is currently in the process of being rescinded. The information incorporated from 1 CSR 30-3.060 and the remainder of the rule has been revised and reorganized to better reflect FMDC's current practices and to increase the readability of the regulation. Most significantly, this information was revised to recognize the use of standing contracts other than job order contracting and to use the industry term "suspension" rather than "ineligibility" when referring to a decision to bar a contractor from performing work on a state contract for a temporary period of time.

*PURPOSE: This rule sets forth the methods and procedures for selection of project[/] construction **and** management services[, construction management at risk services, job order contracts, design/build contracts, pre-qualification and best value performance based contracts].*

(1) Definitions. As used in this regulation and the remainder of this chapter, the following terms mean:

(A) "Affiliate," a person who directly or indirectly controls, or has the power to control, another person or a person who is subject to the control of another person. Indicia of control include, but are not limited to: interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees or a business entity organized following the suspension or debarment of a person that has the same or similar management, ownership or principal employees as the debarred or suspended person;

(B) "Bidder," a person who submits a proposal for a construction contract in accordance with 1 CSR 30-3, or one who offers to or subcontracts to a person who submits a proposal for a construction contract;

(C) "Bid documents," a document or documents by which the division solicits proposals for a contract;

(D) "Commissioner," the Commissioner of the State of Missouri, Office of Administration;

(E) "Competitive bid," a process of advertising for bids in accordance with section 8.250, RSMo or solicitation of bids from a minimum of three (3) contractors in which an award is based on the lowest responsive, responsible bid or other pre-established criteria where cost is a factor;

(F) "Debarment," the exclusion of a contractor from performing work on a state project for an indefinite period of time;

(G) "Design-build," a project for which the design and construction services are furnished under one contract;

(H) "Design-build contract," a contract between the division and a design-builder, to furnish the architecture or engineering and related design services necessary for a given public construction project and to furnish the labor, materials, and other construction services for the same public project;

(I) "Design-builder," any individual, partnership, joint venture, corporation, or other legal entity that furnishes both the architectural or engineering services and construction services for a project, whether itself or through subcontracts;

(J) "Design criteria consultant," a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to Chapter 327, RSMo, and who is employed by contract to the division to provide professional design and administrative services in connection with the preparation of the design criteria package;

(K) "Design criteria package," performance-oriented program, scope and specifications for the public construction project sufficient to permit a design-builder to prepare a response to the division's request for proposals for a design-build project;

(L) "Design services," services that are—

1. Within the practice of professional engineering as defined

in section 327.181, RSMo, or the practice of architecture as defined in section 327.091, RSMo; or

2. Performed by a registered architect or professional engineer in connection with the architect's or professional engineer's employment or practice;

(M) "Director," the director of the Division of Facilities Management, Design and Construction;

(N) "Division," the State of Missouri, Office of Administration, Division of Facilities Management, Design and Construction;

(O) "Evaluation team," a group of people selected by the director to evaluate bidders' qualifications or proposals;

(P) "Job order contract," a standing contract where the prices for work are determined by specifying one (1) or more published construction unit price books and the applicable divisions or line items and/or providing a list of work items and requiring the bidders to bid or propose one (1) or more coefficients or multipliers to be applied to the price book or work items as the price proposal;

(Q) "Person," an individual, corporation, partnership, association, or legal entity;

(R) "Principal," an officer, director, owner, partner, key employee, or other person within an organizational structure having the authority to obligate the bidder in a contractual relationship;

(S) "Proposal," an offer to enter into a contract, including bids submitted in a competitive bidding process;

(T) "Public construction project," the process of designing, constructing, reconstructing, altering, or renovating state owned real property;

(U) "Request for proposals," a document by which the division solicits proposals for a contract;

(V) "Standing Contract," a contract for construction, renovation, maintenance, and/or repair services to be performed during a specified period of time where the delivery times and quantities of work are indefinite, and the cost of orders for work to be performed under the contract is based on predetermined rates;

(W) "Stipend," an amount paid to the unsuccessful proposers to defray the cost of submission of phase II of the design-build proposal;

(X) "Suspension," the exclusion of a contractor from performing work on a state project for a temporary period of time.

(2) Competitive Bidding.

(A) Soliciting Bids. Section 8.250, RSMo requires that bids be solicited for work on public construction projects. When appropriate, solicitation for bids will go beyond the minimum requirements of the statutes and/or this rule. Notice of solicitation for bids on projects in major metropolitan areas will be sent to minority contractor assistance organizations. Solicitation for bids is authorized only after review and approval of drawings and specifications have been completed in accordance with 1 CSR 30-3.030.

1. Projects costing more than twenty-five thousand dollars (\$25,000). Projects costing more than twenty-five thousand dollars (\$25,000) will have solicitation advertised in accordance with section 8.250, RSMo. In addition, when appropriate, individual firms will be contacted to determine and/or solicit their interest.

2. Projects costing twenty-five thousand dollars (\$25,000) or less. Projects costing twenty-five thousand dollars (\$25,000) or less will be referred to in these regulations as small projects. Small projects may be accomplished using standing contracts or individually procured by the agency in accordance with the current policies of the Division of Facilities Management Design and Construction.

3. Emergency projects.

A. Projects for emergency repairs the cost of which exceeds twenty-five thousand dollars (\$25,000) require approval

of the director. Requests should include scope, source of funding and, when appropriate, drawings, specifications and proposal forms.

B. The director may waive the requirement of competitive bids for construction projects when the director has determined that there exists a threat to life, property, public health, or public safety or when immediate projects are necessary for repairs to state property in order to protect against further loss of, or damage to, state property, to prevent or minimize serious disruption in state services or to ensure the integrity of state records. Emergency contracts for construction shall be made with as much competition as is practicable under the circumstances.

C. For emergency repair projects, firms that are available and competent to perform the necessary work will be invited to visit the site for examination and discussion of the work. Attending firms will be provided with available drawings, specifications, proposal forms, and instructions for submitting proposals. Telephone bids for an hourly rate with a "total not to exceed" amount may be accepted.

D. Work included in an emergency request for proposals shall be held to the minimum necessary to eliminate hazards and/or prevent further damage. Corrective work shall not be included in the emergency request, but incorporated into a separate project for later solicitation.

4. Project related equipment. If it is determined that it is necessary or expedient for project related equipment or materials to be separately procured, the Division of Facilities Management, Design and Construction will prepare the necessary specifications and procure the equipment using appropriate competitive bidding procedures.

(B) Pre-Bid Conference. When appropriate, a pre-bid conference will be held at the project site. Interested firms will be invited to inspect and discuss the project work. Answers and clarification to substantive questions raised at the pre-bid conference will be published in an addendum distributed to all plan holders having made deposits.

(C) Addenda. Substantive changes or clarifications established between the times of solicitation and receipt of proposals will be issued as addenda to all plan holders who hold plans. Sufficient time, including an extension if necessary, will be allowed for addenda to be received, considered and incorporated into proposals submitted for the work.

(D) Receipt and Opening of Proposals. Unless otherwise approved by the director, all proposals will be received at the office of the division. Proposals received in response to a solicitation shall be held secure until the bid opening. If requested in writing and properly identified prior to the set date and time for opening, proposals may be returned to the firm making the submission. At the set date and time, all proposals received shall be opened and made public. Proposals received after the set date and time for openings shall be returned unopened to the firm making the late submission. For good and sufficient cause, in the best interest of Missouri, the director may reject any or all proposals.

(E) Evaluation of Proposals. Proposals received shall be evaluated based on the method of procurement as defined in the bid documents within the available appropriations. When several appropriation items are combined in a single lump sum bid item, the total price for the single bid item shall not exceed the total of the amounts appropriated for all the included items.

(F) Contracts. Approval by the director of a contract for a project costing twenty-five thousand dollars (\$25,000) or more will be granted only after review and approval of drawings and specifications in accordance with 1 CSR 30-3.030.

1. Award of contracts shall be made to the bidder successfully meeting the requirements of the bid documents within the available appropriations.

2. Intent to Award. An intent to award letter will be issued

to the successful bidder upon approval by the director. The purpose of the intent to award letter is to notify the successful bidder of their selection so they may obtain the insurance, performance bond, and other documentation necessary to allow the notice to proceed to be issued.

3. Contract Documents. Contract documents may require, as appropriate, performance/payment bond, Workers' Compensation insurance, comprehensive general liability and property damage insurance, automobile public liability and damage insurance, owner's protection liability insurance, builder's risk (or installation floater) insurance, and special hazard insurance. The director or his/her designee will determine the form and items required to provide the complete contract documents. Evidence of these items shall be furnished on the forms and in amounts determined by the director to be necessary and/or in compliance with current statutes. In addition, drawings and specifications on which proposals were submitted shall be incorporated by reference in the contract signed by the successful bidder. Contracts shall not be approved until these contract documents, properly executed, are received by the director. The director has discretion to reject any insurer for bond and insurance tendered. Failure to perform on a prior contract may be cause for rejection of an insurer. Failure to furnish the mandatory contract documents in a reasonable time may be treated by the director as refusal to accept the contract and/or execute the contract.

4. Notice to Proceed. Notice to proceed with work on a project will be issued by the director, or his/her designee, and work on a project will not be authorized until a notice is issued. This notice shall be issued only after encumbrance of funds for the contract.

(3) Pre-qualification.

[(1)](A) Criteria. The *[D]*division *[of Facilities Management, Design and Construction]* may require pre-qualification of bidders when the construction project to be bid is:—

- [(A)]1.* Is highly specialized as to the work to be performed;
- [(B)]2.* Requires significant experience in the method of construction specified;
- [(C)]3.* Requires specialized equipment and experience with such equipment;
- [(D)]4.* Requires specific expertise in the installation of sophisticated equipment, systems, or controls;
- [(E)]5.* Requires a minimum level of training or certification from specified equipment manufacturers;
- [(F)]6.* Must be completed within a critical time frame; or
- [(G)]7.* Requires higher than "industry standard" quality control.

[(2)](B) Selection. The director *[shall]* will select those projects for which pre-qualification of bidders is appropriate.

[(3)](C) Procedure. The pre-qualification process *[shall]* will be a one-step process. The division shall prepare a request for qualifications for specific selected project **with a description of the project, the rationale for the decision to pre-qualify bidders, the procedures for submittal and the selection criteria to be used.** Notice of the request for qualifications shall be advertised in accordance with section 8.250, RSMo *[Supp. 2007]*. *[The division shall publish a notice of the request for qualifications with a description of the project, the rationale for the decision to pre-qualify bidders, the procedures for submittal and t]The selection criteria to be used[, which] in the pre-qualification may include:]—*

- [(A)]1.* Experience of the bidder with similar projects;
- [(B)]2.* Experience of key personnel proposed for project;
- [(C)]3.* List of recent projects of similar scope and value;
- [(D)]4.* Bonding capacity;
- [(E)]5.* List of specified equipment available to bidder;
- [(F)]6.* References;
- [(G)]7.* Safety records;

[(H)]8. Previous project completion schedules;

[(I)]9. Previous project contract change rates; and

[(J)]10. Qualifications of subcontractors proposed for specified areas of work.

[(4)](D) Evaluation. An evaluation team **consisting of at least three (3) representatives of the division** shall be selected by the director to evaluate the qualifications submitted by all potential bidders. *[The team shall consist of at least three (3) representatives of the division.]*

[(A)]1. The evaluation team shall review the submittals of the potential bidders and assign points to each submittal in accordance with the criteria established for the project and as set out in the instructions of the request for qualifications.

[(B)]2. All potential bidders obtaining a pre-determined number of points shall be pre-qualified to submit a bid on the project on a date specified.

[(C)]3. Only bids from pre-qualified bidders will be accepted and opened. Bid evaluation shall be on the basis of the lowest, responsive, responsible bidder.

[(5) Definitions:

(A) "Best value performance based contracting," a project procurement method that allows the division to consider factors in addition to price, such as, past performance, risk assessment and designer/contractor interviews when selecting a designer/contractor. The process uses performance information to select the best value designer/contractor in conjunction with price proposals;

(B) "Competitive bid," a process of advertising for bids in accordance with section 8.250, RSMo or solicitation of bids from a minimum of three (3) contractors in which an award is based on the lowest responsive, responsible bid or other pre-established criteria where cost is a factor;

(C) "Construction manager-at-risk," a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the Division of Facilities Management, Design and Construction regarding construction during and after the design of the facility;

(D) "Design-build," a project for which the design and construction services are furnished under one contract;

(E) "Design-build contract," a contract between the division and a design-builder, to furnish the architecture or engineering and related design services required for a given public construction project and to furnish the labor, materials, and other construction services for the same public project;

(F) "Design-builder," any individual, partnership, joint venture, corporation, or other legal entity that furnishes the architectural or engineering services and construction services, whether itself or through subcontracts;

(G) "Design criteria consultant," a person, corporation, partnership, or other legal entity duly registered and authorized to practice architecture or professional engineering in this state pursuant to Chapter 327, RSMo, and who is employed by contract to the division to provide professional design and administrative services in connection with the preparation of the design criteria package;

(H) "Design criteria package," performance-oriented program, scope and specifications for the public construction project sufficient to permit a design-builder to prepare a response to the division's request for proposals for a design-build project;

(I) "Design services," services that are:

1. Within the practice of professional engineering as defined in section 327.181, RSMo or the practice of architecture as defined in section 327.091, RSMo; or

2. Performed by a registered architect or professional

engineer in connection with the architect's or professional engineer's employment or practice;

(J) "Director," the director of the Division of Facilities Management, Design and Construction;

(K) "Division," the state Office of Administration, Division of Facilities Management, Design and Construction;

(L) "Evaluation team," a group of people selected by the director to evaluate the proposals of the design-builders. The team shall consist of at least two (2) representatives of the Division of Facilities Management, Design and Construction and two (2) representatives of the using agency. A fifth member shall be selected by the director and shall serve as chairman to facilitate the evaluation process and to vote only in case of a tie;

(M) "Job order contracting (JOC)," is a firm fixed priced competitively bid procurement process with an indefinite quantity for small to medium sized construction and repair projects with the allowable size established by statute;

(N) "Proposal," an offer to enter into a design-build contract;

(O) "Public construction project," the process of designing, constructing, reconstructing, altering or renovating a state owned building;

(P) "Request for proposals," the document by which the division solicits proposals for a design-build contract; and

(Q) "Stipend," an amount paid to the unsuccessful proposers to defray the cost of submission of phase II of the design-build proposal.

(6) *Design-Build.* The director shall select those projects for which the use of the design/bid/build, design-build procurement, job order contracting, project/construction management or construction manager at-risk process is appropriate. In making that determination, the director shall consider:

(A) The likelihood of whether either method of procurement will serve the public interest by providing substantial savings of time or money over the traditional design/bid/build delivery process;

(B) The time available to complete the project and meet the needs of the agency and any need to expedite the delivery process;

(C) The type of project and its suitability of either method;

(D) The size of the project;

(E) The level of agency knowledge and confidence about the project scope and definition;

(F) The availability of the using agency staff to manage the project; and

(G) The availability of the division staff to manage the project.

(7) *Best Value Performance Based Contracting.*

(A) The division may use the best value performance based contracting method for a project when it is determined necessary to have higher than minimum standard performance and quality within a highly defined schedule and budget. In using this method, the division shall follow the procedures prescribed by this chapter.

(B) Best value performance based contracts may be a multi-phased procurement process consisting of the evaluation of proposers based on:

1. Past performance information;

2. Experience;

3. References;

4. Current capacity—

A. Risk assessment plan;

B. Interviews of staff, subconsultants and subcontractors; and

C. Schedule; and

5. Bid proposal (except for consultant selections).

(C) Past performance experience, references may account for twenty to forty percent (20–40%) of the evaluation; current capacity may account for thirty to fifty percent (30–50%) of the evaluation and cost may account for twenty to forty percent (20–40%) of the evaluation, except when consultants are selected and cost is not a factor, in which case, past performance, experience, references, and current capacity will account for one hundred percent (100%) of the evaluation.

(D) A request for proposals shall be prepared for each best value performance based contract containing, at a minimum the following elements:

1. The procedures to be followed for submitted proposals, the criteria for evaluation of proposals and their relative weight and the procedures for making awards;

2. The procedures for obtaining the plans and specifications for the project;

3. A schedule for the planned commencement and completion of the contract;

4. Budget limits of the contract; and

5. Affirmative action and minority or women's business enterprise requirements for the contract.

(E) Notice of requests for proposals shall be advertised in accordance with state statute.

(F) The evaluation team shall review the submittals of the proposers and assign points to each proposal in accordance with the instructions of the request for proposals.

(G) Sealed cost proposals shall be submitted in accordance with the instructions of the request for proposal and publicly opened as set forth in the request for proposal, except for consultant selections.

(H) The division may require offerors to submit additional information related to contract planning and performance after the intent to award notification but prior to award of the contract.

(I) The division may reject an offeror's proposal and rescind the intent to award if the additional information is inadequate or not provided within the time established in the request for proposal.

(J) The division may move to the next highest scoring proposer or reject all proposals and solicit new proposals following the procedures for this method of procurement.]

[(8)](4) Project/Construction Management.

(A) Project/construction management services may be procured [A]as provided in sections 8.675 to 8.687, RSMo [Supp. 2007].

[(9) Construction Manager-at-Risk.

(A) The division may use the construction manager-at-risk method for a project. In using that method and in entering into a contract for the services of a construction manager-at-risk, the division shall follow the procedures prescribed by this section.

(B) Before or concurrently with selecting a construction manager-at-risk, the division shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with all state laws, as applicable. If the engineer or architect is not a full-time employee of the division, the division shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by sections 8.285 to 8.291, RSMo. The division's engineer or architect for a project may not serve, alone or in combination with another, as the construction manager-at-risk. This subsection does not prohibit a division engineer or architect from providing customary construction phase services under

the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

(C) The division may provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the division.

(D) The division shall select the construction manager-at-risk in either a one (1)-step or two (2)-step process. The division shall prepare a request for proposals, in the case of a one (1)-step process, or a request for qualifications, in the case of a two (2)-step process, that includes general information on the project site, project scope, schedule, selection criteria, and the time and place for receipt of proposals or qualifications, as applicable; a statement as to whether the selection process is a one (1)-step or two (2)-step process; and other information that may assist the division in its selection of a construction manager-at-risk. The division shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk. If a one (1)-step process is used, the division may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two (2)-step process is used, the division may not request fees or prices in step one. In step two, the division may request that five (5) or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions. By either method, past performance, experience, references and capacity shall account for a minimum of sixty percent (60%) of the evaluation. Cost shall account for a maximum of forty percent (40%) of the evaluation.

(E) The division shall publish the request for qualifications in a manner prescribed by the division.

(F) At each step, the division shall receive, publicly open, and read aloud the names of the offerors. Within forty-five (45) days after the date of opening the proposals, the division or its representative shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(G) The division or its representative shall select the offeror that submits the proposal that offers the best value for the division or using agency based on the published selection criteria and on its ranking evaluation. The division or its representative shall first attempt to negotiate a contract with the selected offeror. If the division or its representative is unable to negotiate a satisfactory contract with the selected offeror, the division or its representative shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(H) A construction manager-at-risk shall publicly advertise, in the manner prescribed by Chapter 8, RSMo 2000, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the division determines that the construction manager-at-risk's bid or proposal provides the best value for the division or using agency.

(I) The construction manager-at-risk and the division or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or division. All bids or proposals shall be made public after the award of the contract or within seven (7) days after the date of final selection of bids and proposals, whichever is later.

(J) If the construction manager-at-risk reviews, evaluates, and recommends to the division a bid or proposal from a trade contractor or subcontractor but the division requires another bid or proposal to be accepted, the division may compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the Division of Facilities Management, Design and Construction's requirement that another bid or proposal be accepted.

(K) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, itself fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(L) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the division must each be in an amount equal to the project budget, as set forth in the request for qualifications. The construction manager-at-risk shall deliver the bonds not later than the tenth day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the division to ensure that the construction manager-at-risk will furnish the required performance and payment bonds when a guaranteed maximum price is established.]

[(10)](5) Design-Build.

(A) **Criteria.** The director will select those projects for which the use of design-build procurement is appropriate. In making that determination, the director should consider—

1. The likelihood of whether either method of procurement will serve the public interest by providing substantial savings of time or money over the traditional design/bid/build delivery process;

2. The time available to complete the project and meet the needs of the agency and any need to expedite the delivery process;

3. The type of project and its suitability of either method;

4. The size of the project;

5. The level of agency knowledge and confidence about the project scope and definition;

6. The availability of the using agency staff to manage the project; and

[(A)]7. **The availability of the division staff to manage the project.** If a design-build process is selected, the director [shall] will determine the scope and level of detail [required] necessary to permit qualified persons to submit proposals in accordance with the request for proposals given the nature of the project.

(B) **Procedure.** A design criteria consultant may be employed or retained by the division director to assist in preparation of the request for proposal, perform periodic site visits, prepare progress reports, review, and approve progress and final pay applications of the design-builder, review shop drawings and submittals, decide disputes, interpret the construction documents, perform inspections upon substantial and final completion, assist in warranty inspections, and to provide

any other professional service where the director deems it to be in the public interest to have an independent design professional assisting with the project administration. The consultant *[shall]* **will** be selected and its contract negotiated in compliance with sections 8.285 to 8.291, RSMo *[Supp. 2007]*.

[(C)]1. Notice of requests for proposals shall be advertised in accordance with section 8.250, RSMo *[Supp. 2007]*. The division shall publish a notice of a request for proposal with a description of the project, the rationale for the decision to use the design-build method of procurement, the procedures for submittal, and the selection criteria to be used.

[(D)]2. The director shall establish in the request for proposal a time, place, and other specific instructions for the receipt of proposal. Proposals not submitted in strict accordance with those instructions shall be subject to rejection.

[(E)]3. A request for proposals shall be prepared for each design-build contract containing at minimum the following elements:

[1.]A. The procedures to be followed for submitting proposals, the criteria for evaluation of proposals, and their relative weight and the procedures for making awards;

[2.]B. The proposed terms and conditions for the design-build contract;

[3.]C. The design criteria package;

[4.]D. A description of the drawings, specifications, or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications, or other information that will be acceptable;

[5.]E. A schedule for planned commencement and completion of the design-build contract;

[6.]F. Budget limits for the design-build contract, if any;

[7.]G. Affirmative action and minority or women business enterprise requirements for the design-build contract, if any;

[8.]H. Requirements including any available ratings for performance bonds, payment bonds, and insurance; and

[9.]I. Any other information that the division in its discretion chooses to supply, including, without limitation, surveys, soil reports, drawings of existing structures, environmental studies, photographs, or references to public records, or affirmative action and minority business enterprise requirements consistent with state and federal law.

[(F)]4. The director *[shall]* **will** solicit proposals in a three (3)-stage process. Phase I *[shall]* **will** be the solicitation of qualifications of the design-build team. Phase II *[shall]* **will** be the solicitation of a technical proposal including conceptual design for the project, and *[p/Phase III shall]* **will** be the proposal of the construction cost.

[(G)]5. The evaluation team shall consist of at least two (2) representatives of the division, two (2) representatives of the using agency, and a fifth member selected by the director who shall serve as chairman to facilitate the evaluation process and vote only in case of a tie. The evaluation team shall review the submittals of the proposers and assign points to each proposal in accordance with this *[document]* **regulation** and *[as set out in the instructions of]* the request for proposal.

[(H)]6. In Phase I *[shall require]* all proposers *[to]* **shall** submit a statement of qualification *[which shall]* **that** includes, but is not *[be]* limited to:—

[1.]A. Demonstrated ability to perform projects comparable in design, scope, and complexity;

[2.]B. References of owners for whom design-build projects have been performed;

[3.]C. Qualifications of personnel who will manage the design and construction aspects of the project; and

[4.]D. The names and qualifications of the primary design consultants and the contractors with whom the design-builder proposes to subcontract. The design-builder may *[not]* **only** replace an identified subcontractor or subconsultant with~~out~~ the written approval of the director.

[(J)] The evaluation team shall evaluate the qualifications of

all proposers in accordance with the instructions of the request for proposal.]

7. Architectural and engineering services on the project shall be evaluated in accordance with the requirements of sections 8.285 *[and]* to 8.291, RSMo. Qualified proposers selected by the evaluation team may proceed to *[p/Phase II]* of the selection process. Proposers lacking the necessary qualifications to perform the work shall be disqualified and *[shall]* **not allowed to** proceed to *[p/Phase II]* of the process. Under no circumstances shall price or fee be a part of the prequalification criteria. Points assigned in the *[p/Phase I]* evaluation process *[shall]* **will** not carry forward to *[p/Phase II]* of the process. All qualified proposers shall be ranked on points given in *[p/Phases II and III]* only.

[(K)]8. The director *[shall have]* **has** discretion to disqualify any proposer, which in the director's opinion, lacks the minimal qualifications *[required]* **necessary** to perform the work.

[(L)]9. Once a sufficient number of qualified proposers have been selected, the proposers *[shall have]* **will be given** a specified amount of time with which to assemble *[p/Phase II]* and *[p/Phase III]* proposals.

[(M)]10. Phase II of the process shall be conducted as follows:

[1.]A. The director *[shall]* **will** invite the top qualified proposers to participate in *[p/Phase II]* of the process;

[2.] *Proposers must submit their design for the project to the level of detail required in the request for proposal.]*

B. The design proposal should demonstrate compliance with the requirements set out in the request for proposal, **including the level of detail requested for the design;**

[3.]C. The ability of the proposer to meet the schedule for completing a project as specified by the owner may be considered as an element of evaluation in *[p/Phase II]*;

[4.]D. Up to twenty percent (20%) of the points awarded to each proposer in *[p/Phase II]* may be based on each proposer's qualifications and ability to design, contract, and deliver the project on time and within budget of the Office of Administration;

[5.]E. Under no circumstances should the design proposal contain any reference to the cost of the proposal; and

[6.]F. The design submittals will be evaluated and assigned points in accordance with the requirements of the request for proposal. Phase II shall account for no less than forty percent (40%) of the total point score as specified in the request for proposal.

[(N)]11. Phase III shall be conducted as follows:

[1.]A. The *[p/Phase III]* proposal must provide a firm, fixed cost of construction. *The proposal must* **and** be accompanied by bid security and any other *[required]* submittals **mandated by the request for proposals**, such as statements of minority participation *[as required by the request for proposal]*;

[2.]B. Cost proposals must be submitted in accordance with the *[instructions of the]* request for proposal. The director shall reject any proposal that is not submitted on time. Phase III shall account for not less than forty percent (40%) of the total point score as specified in the request for proposal;

[3.]C. Proposals for *[p/Phase II]* and *[p/Phase III]* shall be submitted concurrently at the time and place specified in the request for proposal. The *[p/Phase III]* cost proposals shall be opened only after the *[p/Phase II]* design proposals have been evaluated and assigned points;

[4.]D. Cost proposals will be opened and read aloud at the time and place specified in the request for proposal. At the same time and place, the evaluation team will make public its scoring of *[p/Phase II]*. Cost proposals will be evaluated in accordance with the requirements of the request for proposal. In evaluating the cost proposals, the low bidder shall be awarded the total number of points assigned to be awarded in *[p/Phase III]*. For all other bidders, cost points will be calculated by reducing the maximum points available in *[p/Phase III]* by two percent (2%) or more for each percentage point of the low bid by which the bidder exceeds the low bid and the points assigned will be added to the points assigned for *[p/Phase II]*

for each proposer;

[5./E.] If the director determines that it is not in the best interest of the state to proceed with the project pursuant to the proposal offered by the proposer with the highest total number of points, the director *[shall]* **may** reject all proposals. In such event, all qualified proposers with lower point totals shall receive a stipend and the proposer with the highest total number of points shall receive an amount equal to two (2) times such stipend. If the director determines to award the project, the responsive proposer with the highest number of points shall be awarded the contract; and

[6./F.] If all proposals are rejected, the director may solicit new proposals using different design criteria, budget constraints, or qualifications.

[(O)/12.] As an inducement to qualified proposers, the division may pay a reasonable stipend, the amount of which shall be established in the request for proposal, to each prequalified design-builder whose proposal is responsive but not accepted. Upon payment of the stipend to any unsuccessful design-build proposer, the state shall acquire a nonexclusive right to use the design submitted by the proposer, and the proposer shall have no further liability for its use by the state in any manner. If the design-build proposer desires to retain all rights and interest in the design proposed, the proposer shall forfeit the stipend.

[(11) Job Order Contracting.]

(A) The division may award JOC for the maintenance, construction, repair, rehabilitation, renovation or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of pre-described and pre-priced tasks.

(B) The division may establish contractual unit prices for a JOC by:

- 1. Specifying one (1) or more published construction unit price books and the applicable divisions or line items; or*
- 2. Providing a list of work items and requiring the offerors to bid or propose one (1) or more coefficients or multipliers to be applied to the price book or work items as the price proposal.]*

(6) Standing Contracts.

(A) The minimum and maximum amounts of work to be performed under a standing contract shall be stated in the bid documents issued by the division. Once work reaches the maximum amount, no further work may be performed under the contract.

(B) The amount of each order for a job or project issued under a standing contract shall not exceed the amounts set forth in section 8.255, RSMo.

(C) The division shall advertise for, receive, and publicly open sealed proposals for *[JOC] standing contracts in accordance with the competitive bidding standards established by Chapter 8, RSMo and these regulations.*

(D) The division may require *[offerors] bidders on standing contracts* to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology.

(E) The division may award *[JOC] standing contracts* to one (1) or more contractors in connection with each solicitation of bids or proposals.

(F) An order for a job or project under *[the JOC] a standing contract* must be signed by the division's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities, or may be a unit price order based on the quantities and line items delivered.

(G) The contractor shall provide payment and performance bonds*[, if required by law, based on the amount or estimated amount of any order]* as set forth in bid documents issued by the

division.

(H) The base term of a *[JOC is] standing contract* is for the **initial** period and *[with]* any renewal options that the division sets forth in the bid documents. The base term may not exceed two (2) years and is not renewable without further advertisement and solicitation of proposals.

(I) If a *[JOC] standing contract* or an order issued under the contract requires *[engineering or architectural]* services that constitute the practice of engineering or the practice of architecture, those services shall be provided in accordance with applicable law.

(7) Contractor Responsibility. The director has the authority to declare a contractor not responsible, and to either suspend or debar the contractor from performing work on any state project.

(A) Initial Decision.

1. Notice of the director's decision to suspend or debar a contractor shall be sent to the contractor by certified mail, return receipt requested. The notice should contain a statement as to the factual basis for the contractor's suspension or debarment, the length of the suspension, and an explanation of what the contractor must do to be found eligible to again submit bids on contracts.

2. Upon receipt of notice of suspension or debarment, the contractor may request a hearing in front of the director or his/her appointed designee. The hearing will be informally conducted and provide the contractor or affiliates an opportunity to present any facts that may tend to show that the contractor is in fact responsible.

3. Any request for a hearing must be postmarked within ten (10) consecutive calendar days of the date of receipt of the notice, as evidenced by the return receipt.

4. The director shall render a determination within sixty (60) consecutive calendar days of the hearing. The determination shall be sent to all parties by certified mail, return receipt requested. The determination shall set forth the basis for the suspension or debarment, the length of ineligibility, and the showing required for the contractor to once again be determined eligible to bid on contracts. The determination may affirm, reverse, or modify the preliminary determination.

(B) Appeal. The contractor may request that the director's determination be reviewed by the commissioner of administration or his/her appointed designee.

1. Any request for review must be in writing and be filed with the commissioner within fourteen (14) consecutive calendar days of the date of receipt of the director's final determination, as evidenced by the return receipt. The request must set forth specific reasons why relief should be granted.

2. A review under this section will be based solely on the documentation submitted by both the contractor and the director. No new hearing will be provided. The commissioner may set aside a determination only if it is found to be an abuse of discretion.

3. The commissioner's determination shall be issued within sixty (60) consecutive calendar days of the date of the request for review and shall be mailed to all parties.

4. The decision of the director or the commissioner to suspend or debar a contractor is not a "contested case" as defined in Chapter 536, RSMo.

(C) Effect of Suspension or Debarment. During the period of suspension or debarment, a suspended or debarred contractor will not be eligible to receive invitations for bids or requests for proposals or to be awarded any contract by the division. A suspended or debarred contractor may also not participate in any contract with the division. This restriction includes being a sub-contractor, consultant, sub-consultant or supplier to any eligible contractor, as well as submitting a bid as part of a partnership or joint venture.

1. If a contractor enters into any contract to perform work

on a state project during a period of suspension or debarment, the director may issue a determination extending the time of suspension, changing a suspension to a debarment, or changing the showing that the contractor must make to be determined eligible to perform work on future contracts.

2. Any eligible contractor who knowingly contracts with a suspended or debarred contractor to provide labor or materials on a contract with the division may be suspended or debarred.

3. A suspension or debarment may extend to any affiliate of the contractor who had actual or constructive knowledge of the preliminary determination of suspension or debarment.

4. The director may suspend a contractor for a period not to exceed one year or debar a contractor indefinitely. After the stated period of suspension has expired or more than two (2) years has passed since the finding of debarment, the contractor may apply to the director to be declared eligible. The contractor must show that the contractor has complied with the terms set forth in the final determination of suspension or debarment. If the contractor applies for reinstatement but is unable to demonstrate responsibility to the director, the contractor shall continue to be ineligible until the required information is provided.

(D) Cause for Suspension or Debarment. The director may suspend or debar a company or firm and their named principals for any or a combination of the following reasons:

1. Commission of a criminal offense related to obtaining or performing a government contract;

2. Violation of antitrust statutes;

3. Commission of fraud, embezzlement, theft, forgery, making false statements, or tax evasion;

4. Commission of any other offense or action indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the contractor;

5. Debarment of the contractor by another state, the federal government, another entity of the state of Missouri, or by a political subdivision of the state of Missouri; or

6. Violations of material contract provisions, which include, but are not limited to failure to, perform or negligent performance of any term or standard of one or more contracts. The failure to perform caused by acts beyond the control of the contractor, or a subcontractor, or material supplier, shall not be considered a basis for suspension or debarment.

AUTHORITY: sections 8.250, 8.255, 8.310, and 8.320, RSMo [Supp. 2007] 2016. Original rule filed Nov. 5, 2007, effective June 30, 2008. Amended: Filed Nov. 30, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 3—Capital Improvement and Maintenance
Program**

PROPOSED RESCISSION

1 CSR 30-3.060 Determination of Contractor Responsibility. This rule established the procedure for determining contractor responsibility and eligibility for state contracts.

PURPOSE: This rule is being rescinded and the content is being moved to 1 CSR 30-3.025 where bidding processes and procedures are discussed.

AUTHORITY: section 8.320, RSMo 2000. Original rule filed July 14, 1989, effective Oct. 16, 1989. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 4—Facility Maintenance and Operation**

PROPOSED AMENDMENT

1 CSR 30-4.020 Facility Management. The Division of Facilities Management, Design and Construction is deleting sections (1), (2), and (4), amending existing sections (2) and (5), renumbering and adding new sections (3)–(5) to this regulation.

PURPOSE: This amendment deletes requirements relating to space management and energy conservation program development, amends information related to facility records, and incorporates information formerly found in other regulations in this chapter that are concurrently being rescinded. The information incorporated from other regulations in this chapter has been revised and reorganized to better reflect FMDC's current practices and to increase the readability of the regulation. Information regarding coordination with the State Emergency Management Agency and the use of video surveillance, metal detectors, and security guards has also been added.

PURPOSE: This rule establishes standards and procedures for management of buildings or facilities under the operational direction of the Division of Facilities Management, Design and Construction.

[(1) General. The purpose of these rules is to provide direction and guidance for facilities operators within state government for asset management of state facilities, including space management and utilization, maintenance, energy conservation, safety and security, and facility records. The rules also include guidance on the operational diagnostics and performance tracking.

(2) Space Management. Each department shall have enough assigned space to perform their mission. The director shall develop a space management plan in conjunction with the department's space master plan. The plan shall include space standards for employees based on job function. The director shall be responsible for making recommendation to

the Office of Administration (OA) commissioner and the department for filling vacant space and acquiring new or additional space based on the forecast included in the space master plan.]

[(3)](1) Energy Conservation.

(A) General. Under the direction of the Division of Facilities Management, Design and Construction, each facility *[shall]* **should** implement energy conservation programs and initiatives *[which]* **that** have the goal of more efficient use of energy and utilities. The program *[shall]* **should** include active management, supervision, and tracking in order to assure that energy conservation goals are achieved. Revisions of operational practices and procedures *[shall]* **should** be incorporated to obtain revised goals and/or projects as conditions change or new requirements develop.

(B) Program Development.

1. New construction or alterations. New construction or alterations to existing facilities shall require that all major elements and systems which consume energy or utilities be evaluated to economically minimize energy use. Requirements shall be established for designers of new facilities or alterations to existing facilities to provide (at a minimum) a summary of the examination and conclusions which established the annual energy consumption, selection of each utility system, and each major item of energy consuming equipment. The energy conservation standards and criteria established by the director or the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) in the most current edition or Federal Energy Management Program (FEMP) standards whichever is more stringent and has been established as the energy standards and criteria for Missouri facilities. These standards and criteria shall be utilized in designing and selecting systems and equipment which consume utilities or energy.

2. Existing facilities.

A. Energy audit. The Division of Facilities Management, Design and Construction should maintain energy information allowing for audits and benchmarking of each facility to determine where and how energy is used. The process should identify if energy usage can be reduced by changes in operating practices, equipment, or building systems or physical conditions.

B. Implementation. Those changes which can be made within current appropriations should be made immediately. Changes which require additional funding, for example, purchase of new equipment, energy saving capital improvements, should be implemented as soon as funds are available. Energy conservation measures shall be implemented which generate cumulative savings equal to their cost within the number of years considered by industry standards to be cost effective.

[(4)] Emergencies.

(A) *Preplanned Response.* Preplanned response to emergencies is essential for the safety of personnel and for minimizing property damage. Evacuation plans shall be prepared and posted in prominent locations throughout the facility. A line drawing floor plan of a minimum eight and one-half inches by eleven inches (8 1/2" x 11") size paper shall be prepared for each floor to show evacuation routes. These floor plans, suitably protected, shall be posted in prominent locations throughout the facility. All exits and assembly areas shall be clearly marked.

(B) *Coordination with Local Agencies.* Local agencies for fire and police protection and for disaster planning shall be consulted in the development of evacuation or shelter planning. The local agencies will be consulted for their recommended responses for those emergencies. State facilities may be used for shelter in cases of disasters. The use of state facilities for shelter will be coordinated and preplanned in the event other suitable local facilities are not available. Periodic emergency drills (annual at a minimum) shall be held

to familiarize personnel with the evacuation procedures. Each drill shall be evaluated by the agency to determine effectiveness and to make improvements as required.

(C) *Damage Control.* Preplanned responses for each type of emergency shall include designation of knowledgeable personnel to coordinate actions to minimize or control potential damage. The designated emergency personnel shall closely coordinate with local agencies to develop and provide instructions, directions, and plans to satisfy each emergency condition response.]

[(5)](2) Facility Records.

(A) General. Each facility *[shall]* **should** maintain **the following records** at the site *[complete up-to-date as-built drawings, manuals for equipment, warranty information, and service and repair records for each major piece of equipment.]:*

[(B)]1. [Drawings.] As-built drawings *[shall be maintained to]* reflecting current status, including significant changes resulting from construction or maintenance and repair work. *[Specifications for drawings shall also be maintained.]*

[(C)]2. [Equipment Manuals and Records.] Equipment manuals and manufacturers' literature *[shall be maintained]*, along with *[appropriate]* operational and maintenance logs.

[(D)]3. [Control Diagrams.] Each separate control system shall have a) **A control diagram for each separate control system** identifying the equipment and sequence of operation.

[(E)]4. [Warranties.] All warranties issued *[shall]*, **which should be [recorded, filed and]** periodically reviewed by the facility operations personnel. *[A follow-up procedure shall be developed to review each item covered under warranty after approximately eighty percent (80%) of the warranty period. This inspection is used to determine the condition and performance of the warranted item. Any noted deficiencies shall be reported to the guarantor for correction. Newly completed capital improvement and maintenance project deficiencies shall be reported through the Division of Facilities Management, Design and Construction for correction. A final warranty inspection shall be scheduled immediately prior to expiration of the warranty period and any noted deficiencies shall be reported for correction.]*

[(F)] Safety Inspections. Fire systems, elevators, backflow preventers, emergency lighting, fire extinguishers, public address systems, as well as other life safety systems are required to be inspected according to all applicable local and state codes and ordinances.]

(3) Maintenance Programs and Standards.

(A) **Facility systems.** The Division of Facilities Management, Design and Construction is responsible for maintaining assets and assisting state entities in meeting their facility needs for the benefit of the public through preventive maintenance and repair of the facility systems. The mission is to provide a superior workplace environment to assure health and safety for state occupants and their visitors and protect the state's investments in property assets.

(B) **Planned Maintenance Program.** An effective planned maintenance program provides for maintaining facilities and equipment in a safe and acceptable condition, promotes effective use of facility maintenance personnel, establishes a basis for determining budget requirements and long-range planning, and provides a means of evaluating the maintenance effort. The program includes inspections and/or evaluation of conditions or requirements, establishment of priorities, scheduling, servicing and operation of facility equipment, corrective work, and supervisory evaluation of the maintenance effort.

1. Inspection. Regular periodic condition assessment inspections of all facility elements and systems are essential for discovery of deficiencies before they deteriorate into major repair

requirements. These assessments are to occur annually. Reports of deficiencies from facility occupants, or from preventative maintenance inspections, require verification and technically qualified examination to determine the cause and extent of the deficiency. Additional information may be necessary to determine corrective action or work, as well as to estimate the cost of materials, equipment, and labor for that action or work.

(C) Preventative Maintenance. Preventative maintenance will be accomplished on a regular schedule in order to substantially reduce the scope and cost of corrective maintenance/repair, emergency repairs, downtime, and overtime.

1. Inspection. Scheduled preventative maintenance for a facility element, system or equipment item should include inspection of the items as often as necessary to meet or exceed manufacturers' recommendations. The inspection may include, but is not limited to, conditions and appearance of materials, fastenings, seals, drive systems, lubrication, or other elements. Deficiencies should be noted each time an item is serviced. A work order system will be utilized to record necessary work, accomplished work or conditions, or both, noted for each element. The work order also serves to assure that no element is inadvertently omitted. Remarks should be included on the work order providing specific information concerning noted problems or deficiencies.

2. Minor Repairs. Normally, repair work is not a part of the regular scheduled service. However, when the individual performing the servicing has the supplies and tools available, and the repair can be accomplished quickly, minor repairs can be performed during the scheduled servicing. This repair work should not be undertaken if it prevents completion of the servicing schedule. A condition requiring maintenance/repair discovered during scheduled servicing should be reported, so that needed work can be evaluated and performed as an emergency repair, if necessary, or as a programmed maintenance item.

(D) Emergency Repair. Emergency work may include some items previously programmed, but only to the extent necessary to restore service, correct imminent hazards, or prevent breakdowns. Because of the expense of emergency work, the scope of emergency work will be limited to the items that are necessary to correct the emergency condition. In many instances, this will limit the work to temporary repairs until a permanent solution can be achieved. Completion of any remaining corrective work will be programmed to provide the most cost-effective procedure.

(E) Repair versus Replacement. When repairs are estimated to cost more than fifty percent (50%) of the replacement cost of an item or system, the decision for repair or replacement should be supported by an analysis of the total cost of ownership. The total cost of ownership includes installed cost, operational cost, maintenance cost, salvage value, and life cycle considerations. The most economical method (repair or replacement) should be selected for programmed repairs.

(F) Equipment. Each item of facility equipment has a requirement for inspection and servicing after a specific interval of operation. The goal of inspecting and servicing equipment will be to maintain peak equipment efficiency during its expected life cycle to minimize downtime and equipment failure. Equipment preventative maintenance will be scheduled and tracked through the appropriate software system.

(G) Backlog of Maintenance/Repair. Facility managers are responsible for minimizing the maintenance/repair backlog through preventative maintenance, conservation, and effective use of available resources.

1. Operations Budget Items. Minor items in the backlog of maintenance/repair work that can be accomplished by in-house forces or with standing maintenance contracts should be specifically identified and included in the written justification for operations budget.

2. Capital Improvement Items. Major items in the backlog

of maintenance/repair work should be specifically identified and included in the Capital Improvement Budget.

(H) Plans and Specifications. All work that involves the structural integrity of the facility, life safety modifications, or major revisions or major additions of elements in the utility systems shall have plans and specifications prepared under the supervision of a registered architect or registered professional engineer. The professional is required to affix a professional seal to those plans. These plans and specifications shall comply with the requirements, codes and standards listed in 1 CSR 30-3.030. This requirement applies to work performed by in-house personnel, as well as by contract. Emergency work that involves the facility structure, or major revisions or additions of elements or controls in the utility systems, when time will not permit preparation of plans and specifications, shall be performed under the supervision of a registered architect or registered professional engineer. Emergency work shall be documented and maintained as a part of the as-built drawings for the facility.

(I) Contracts. Maintenance and/or repair may be accomplished through the use of in-house personnel, through the use of individual contracts, or through the use of standing contracts. Services, materials, equipment and supplies for maintenance and/or repair will be procured in accordance with the provisions of Chapter 8 or Chapter 34, RSMo, as amended. Personnel are not authorized to procure services, materials, equipment, or supplies exceeding twenty-five thousand dollars (\$25,000) in value unless specific authority has been delegated to the employee for such procurement. Contracts exceeding twenty-five thousand dollars (\$25,000) in value will be handled by Division of Facilities Management, Design and Construction contracts staff or by the Division of Purchasing, as appropriate.

(J) The Division of Facilities Management, Design and Construction uses software programs to track the maintenance and repairs needed and performed at facilities statewide, including to plan preventative maintenance activities/functions, to create, track, maintain, and schedule work orders for maintenance personnel to perform facility repairs, and to track maintenance inventory. Facility managers are responsible for familiarizing themselves with the software systems utilized by the Division of Facilities Management, Design and Construction and utilizing such systems as directed.

(4) Facility Safety.

(A) Safety Inspections. Fire systems, elevators, backflow preventers, emergency lighting, fire extinguishers, public address systems, as well as other life safety systems will be inspected according to all applicable local and state codes and ordinances, and as set forth herein.

(B) Emergency Planning. Preplanned response to emergencies is essential for the safety of personnel and for minimizing property damage. Therefore, plans for action in the event of emergencies will be prepared and include the following:

1. Actions and procedures to promote protection and safety of personnel and to minimize potential damage to property.

2. A listing of all current staff that are Federal Emergency Management Agency/State Emergency Management Agency (FEMA/SEMA) certified staff members.

3. Designation of knowledgeable personnel to coordinate actions to minimize or control potential damage.

4. Actions to be taken in the event of fires or other emergencies in adjacent facilities or areas. Liaison to allow notification to or from occupants in adjacent facilities will be established.

5. Actions for appropriate operation of electrical controls. This planning shall be coordinated with local emergency agencies to assure their awareness of these actions for their own operations in an emergency.

(C) Evacuation Plans. Evacuation plans will be established for each facility, and include clearly marked routes, exits, and assembly

areas for occupants, one (1) designated employee to ensure evacuation of the area, designation of fire lanes in drives adjacent to the facility, and actions to assure that these lanes remain clear. Evacuation plans will be posted in prominent locations throughout the facility. A line drawing floor plan of a minimum eight and one-half inches by eleven inches (8 1/2" × 11") size paper will be prepared for each floor to show evacuation routes, and posted in prominent locations on the corresponding floor.

(D) Coordination with Local Agencies and SEMA. All emergency and evacuation plans will be coordinated with local agencies for fire and police protection and for disaster planning to assure organized efforts by all parties when action is necessary. Local agencies will be consulted in the development of emergency plans for their recommended responses. State facilities may be used for shelter in cases of disasters. The use of state facilities for shelter will be coordinated and preplanned in the event other suitable local facilities are not available. The Continuity of Operations (COOP) and Continuity of Government (COG) emergency preparedness plan processes will be coordinated with the State Emergency Management Agency (SEMA) for all state entities to provide emergency contact information in the event of an emergency declaration.

(E) Emergency Drills.

1. Fire Drills. At least once annually, in addition to regular alarm system tests, a fire drill will be held. All personnel shall evacuate the facility by designated routes to designated assembly areas. One (1) or more employees, as appropriate, will be designated to assure that fire lanes have been cleared. After each fire drill, the facility manager will obtain a report of actions and observations from each person assigned a fire emergency task. Reports may be formal or informal and will be considered in reviewing the effectiveness of the fire drill. After reviewing actions and results of fire drills, the facility manager will take action and/or make recommendations, as appropriate, to incorporate improvements into the plan.

2. Tornado Drills. Tornado drills will be held periodically to familiarize personnel with appropriate procedures. Each tornado drill will be evaluated by the agency to determine effectiveness and to make improvements.

(F) Fire Prevention and Protection.

1. Coordination with local fire department. Facility managers for each site will establish a liaison with the local fire department and invite the local fire personnel to make informal inspections and recommendations for fire prevention and protection. The visits by fire department also provide the opportunity for them to be familiar with the facility and contents, which will enhance the effectiveness of their operation if a fire occurs. The coordination will also address emergency actions that are appropriate for state employees at the facility, including limitations on actions by these employees.

2. Inspections by the Facilities Management Design and Construction. Facility managers will designate one (1) or more persons to make regular scheduled fire prevention inspections, including fire extinguishers. The number of persons designated will depend on the area, the items to be inspected, and the interval between inspections. Each extinguisher will have a tag to record date and initials for each inspection. In some locations, these inspections can be incorporated into preventative maintenance schedules. A report of deficiencies noted will be made to the facility manager, and corrective action will be initiated.

3. Installed alarm systems. Installed alarm systems will be included in preventative inspection and maintenance schedules and tested periodically on a regular schedule. The date and results of each test will be entered into the system maintenance file record. Failure of an alarm system to function properly in a test is considered an emergency condition, and corrective action will be taken immediately.

4. Grounds maintenance should incorporate measures to

minimize potential for trash, grass, or brush fires.

(G) Electrical System Safety.

1. Applicable code requirements will be met for all wiring and electrical equipment on maintenance or repair projects.

2. Inspections. Preventative inspection and maintenance schedules will include inspection (and servicing as appropriate) of electric wiring and equipment. Deficiencies noted in capacity or condition of electric wiring or equipment will be evaluated immediately to determine the potential as imminent hazards. Deficiencies determined to be imminent hazards will be scheduled for immediate correction. Other noted deficiencies will be scheduled by priority.

3. Repairs. Repairs to electrical wiring and equipment will be accomplished only by experienced personnel following procedures to assure minimum potential hazards. Repairs to electrical wiring or electrical equipment will be accomplished by using a lockout/tagout procedure with a team of two (2) or more persons. Materials and equipment installed during the electrical repairs will be in accordance with current International Building Code (IBC) electrical codes.

(H) Lighting. Safety and/or emergency lighting will provide minimum lighting levels to assure safe movement of personnel. Emergency lighting, including exit lights, will be included in preventative inspection and maintenance programs, to assure proper functioning in accordance with current IBC electrical codes. Night lighting will be adequate to provide minimum essential light levels in all corridors or aisles.

(I) Floor loads. Floors are designed to carry specific loads. Normally these loads are expressed in terms of concentrated loads (such as file cabinets) on a small area or uniform loads (such as desks) spread over a wider area. Facility managers will become familiar with the design floor loads and ensure that equipment and/or rows of file cabinets or similar heavy loadings do not exceed the designed capacity. When expertise is not available in the department/agency, requests for assistance in establishing floor load capacities may be directed to the Project Management Unit of the Division of Facilities Management, Design and Construction.

(J) Floor and stair finishes. Floor and stair finishes will be maintained in a safe condition. Selection of floor waxes should include consideration for skid resistance and stairs should have nonskid surfaces or strips. Tiles on floors or stairs, stair nosing, nonskid surfaces, or strips will be maintained in a secure uniform surface. In corridors, aisles or stairs, loose, broken, or missing tile, stair nosing, or nonskid materials will be considered as imminent health and safety hazards and scheduled for immediate correction.

(K). Equipment, controls and moving elements. Equipment with exposed moving elements or drives will be in enclosed and/or locked spaces to prevent accidental contact by personnel. High voltage, high amperage, and high temperature equipment or controls will be in locked cabinets and/or spaces with access limited to authorized personnel. Main electrical control equipment, main valves, and other utility or equipment controls will be in locked spaces with access limited to authorized personnel.

(L) Storage of flammable materials and gases. Storage for flammable materials and gases will be limited to the minimum quantities, consistent with usage rates and available delivery schedules. Since these materials are especially hazardous to health, safety, and property, they will be stored and handled accordingly. Ventilated, secured storage accessible only to authorized personnel will comply with current codes, standards, and Missouri Emergency Response Commission (MERC) reporting requirements. The access to and storage or use of these materials will be carefully controlled in accordance with current codes and standards.

(5) Security.

(A) General. Security standards indicated in this section are minimal and apply to physical security of facilities. These standards do not address requirements for security personnel or security requirements for functions or activities of the facility occupants, since these are operational responsibilities of the various department/agencies.

(B) Locks and Access Control. The security of locks within a facility will be commensurate with the level of need for security of the area or element being secured. All access devices made for locking facilities or facility equipment will be numbered and identified (in records) with the locking device. Each access device for a facility locking mechanism will be issued by number to a specific individual, and the issue of all access devices will be recorded in a control register. All personnel leaving employment at the facility shall return all access devices issued for facility locking devices and the returns will be recorded in the register. A periodic inquiry will be made to determine the location of all access devices for facility locking devices. If an access device is missing, a determination of need for changing the locks and issuing new keys will be made.

(C) After Hours Access. After hours access to every facility shall be limited to an absolute minimum, consistent with requirements for accomplishing assigned functions or tasks. This access shall be documented.

(D) Security Lighting. Security lighting will be designed and used with consideration for minimum effective light levels and energy conservation. Controls for automatic turn-on and turn-off should be considered in all security lighting.

(E) Coordination with Local Law Enforcement. Coordination will be established with local law enforcement agencies to enhance the security of all state facilities. Coordination will include providing names of persons to be notified in case of emergency or breach of physical security and a request for surveillance and/or patrols of the area. Local law enforcement authorities will be notified of the presence and/or location of items needing a high degree of security and items that may be likely targets for theft and vandalism. Posted signs for notification in case of emergency will list only the telephone number of the local law enforcement or security office. The local law enforcement or security office can then notify personnel who should respond for an emergency. This notification system avoids the danger of an employee being forced to provide entry for unauthorized persons.

(F) Video Surveillance. The Division of Facilities Management, Design and Construction and/or the Capitol Police currently use video surveillance in some state facilities as a security measure, including the Capitol Building, and may use video surveillance in other facilities, as determined to be necessary.

(G) Metal detector and/or security guards. The Division of Facilities Management, Design and Construction and/or the Capitol Police currently use metal detectors and security guards in some facilities for added security. Metal detectors and/or security guards may be placed in additional facilities, as determined to be necessary.

AUTHORITY: sections 8.320 and 8.360, RSMo [2000] 2016 and subsections 6 and 7 of section 15, 1974 Reorganization Act. Original rule filed July 9, 1982, effective Nov. 15, 1982. Amended: Filed Nov. 30, 1993, effective July 10, 1994. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Amended: Filed Nov. 30, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 4—Facility Maintenance and Operation**

PROPOSED RESCISSION

1 CSR 30-4.030 Maintenance Program Standards and Procedures. This rule established standards and procedures to be used in planning maintenance programs.

PURPOSE: This rule is being rescinded and combined with 1 CSR 30-4.020 and 1 CSR 30-4.040.

AUTHORITY: sections 8.320 and 8.360, RSMo 2000 and subsections 6 and 7 of section 15, 1974 Reorganization Act. Original rule filed July 9, 1982, effective Nov. 15, 1982. Amended: Filed Nov. 30, 1993, effective July 10, 1994. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded Filed: Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management,
Design and Construction
Chapter 4—Facility Maintenance and Operation**

PROPOSED RESCISSION

1 CSR 30-4.040 Facility Safety and Security. This rule established standards for safety and physical security of state-controlled facilities.

PURPOSE: This rule is being rescinded and combined with 1 CSR 30-4.020 and 1 CSR 30-4.030.

AUTHORITY: sections 8.320 and 8.360, RSMo 2000. Original rule filed July 9, 1982, effective Nov. 15, 1982. Rescinded and readopted: Filed Nov. 5, 2007, effective June 30, 2008. Rescinded: Filed Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

PROPOSED RESCISSION

1 CSR 35-2.010 Rule Objectives. This rule stated the objectives of the rules of the Office of Administration pertaining to the procedures for procuring and managing property leased from others, and for leasing excess property to others.

PURPOSE: This rule is being rescinded and combined with other established rules 1 CSR 35-2.020, 1 CSR 35-2.030, 1 CSR 35-2.040, and 1 CSR 35-2.050.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998. Rescinded: Filed Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

PROPOSED RESCISSION

1 CSR 35-2.020 Definitions. This rule defined terms as used in rules 1 CSR 35-2.010 through 1 CSR 35-2.050 for procuring and managing leased real property.

PURPOSE: This rule is being rescinded and streamlined with other related rules 1 CSR 35-2.010, 1 CSR 35-2.030, 1 CSR 35-2.040, and 1 CSR 35-2.050.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998. Rescinded: Filed Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be con-

sidered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

PROPOSED AMENDMENT

1 CSR 35-2.030 [Administration of the Leasing Process/ Procurement and Management of Leased Real Property.] The Division of Facilities Management, Design and Construction is amending the title, amending the purpose statement, amending existing sections (1)–(3), deleting section (4), adding new sections (1) and (5)–(18), and renumbering.

PURPOSE: This amendment deletes the exceptions in section (4) regarding the carrying of weapons in leased facilities and, in its place, enacts a new section (18) that incorporates the exceptions in 1 CSR 35-1.050(5), “Weapons Capable of Lethal Use Prohibited; Exceptions.” This amendment also adds language currently found in other regulations in this chapter, which are in the process of being rescinded.

PURPOSE: This rule establishes *the Office of Administration as the agency of authority and responsibility for procuring and managing leased real property, and establishes uniform procedures for procuring and managing leased real property.*

(1) As used in this regulation—

(A) “Agency” means any organizational unit of state government, with the exception of the General Assembly, elected officials, the judiciary, Missouri Department of Conservation, Missouri Department of Transportation, institutions of higher education, and bodies corporate and politic;

(B) “Leased premises” means the property being or to be leased;

(C) “Lessor” means the landlord, owner, or agent of the owner of the leased premises;

(D) “Lessee” means the state of Missouri;

(E) “Tenant/using agency” means the organizational unit of state government which occupies the leased premises;

(F) “Premises” means all land, buildings, and equipment furnished as part of the property leased to the state;

(G) “Request for Proposal (RFP)” means a document describing the particular specifications the facility must comply with and the terms and conditions of the contract; and

(H) “Lease” means the documents formalizing and binding the lessor and the lessee. Contract documents include the signed request for proposal, any amendments thereto, and the counter-signed award page.

[(1)](2) The *[c]*Commissioner of *[a]*Administration is the exclusive representative of the state of Missouri in all real estate leasing transactions except as otherwise provided in this chapter. Neither the tenant/using agency nor any individual, organization or group, other than the *[c]*Commissioner of *[a]*Administration, shall have authority to obligate the state of Missouri in real estate leasing transactions in any form.

[(2)](3) The tenant/using agency *[shall have]* **has** primary responsibility for managing the day-to-day operation of the leased premises, but *[shall have]* **has** no authority to waive or modify provisions of the bid specifications or the terms and conditions of the lease. The tenant/using agency shall provide the *[c]*Commissioner of *[a]*Administration with written documentation of any problems,

complaints, or concerns that are contrary to the terms and conditions of the lease.

[(3)](4) The [c]/Commissioner of [a]/Administration may establish and maintain written guidelines to implement these regulations governing the leasing of real property. The guidelines may include, but not be limited to:

(A) Procedures and documents for identifying the amount and type of real property needed;

(B) Procedures and documents for procuring leased premises; and

(C) Procedures and documents for administering the contracts.

[(4) All leases entered into by the Office of Administration shall prohibit carrying a firearm or other weapon readily capable of lethal use into the leased premises. This prohibition shall not apply to state and federal law enforcement officers, peace officers, probation and parole officers, wardens and superintendents of prisons or penitentiaries, members of the armed forces and national guard, persons vested with judicial authority by the state or federal court, and members of the state General Assembly, acting in their official capacity. This prohibition shall not apply to any person who has a valid concealed carry endorsement issued pursuant to sections 571.101 to 571.121, RSMo while such person is servicing an automated teller machine (ATM) in a state owned or leased building; provided, however, that employers of such persons must supply in writing to the state facilities operations manager the names, addresses and photographs of their employees authorized to service such ATMs at least five (5) business days before such persons start servicing the ATMs, and the employers must immediately advise in writing to the state facilities operations manager when any such employee is no longer working for said employer. Possession of a firearm by a person holding a valid state concealed carry endorsement in a vehicle located in a parking area upon the premises of any area referenced in this rule shall not be prohibited so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.]

(5) All acquisitions of leased property, including both newly executed leases and the extensions of existing leases after all renewal options have expired, will be procured through competitive proposals, unless the Commissioner of Administration deems it to be in the best interest of the state to negotiate a particular procurement.

(6) For each lease, the Commissioner of Administration, in conjunction with the tenant/using agency, may develop a Request for Proposal (RFP) for the property to be acquired.

(7) The Commissioner of Administration may suspend from bidding on state leases any individual or organization who—

(A) Materially fails to comply with the provisions of an award from the state or a lease agreement with the state;

(B) Submits false or misleading information in response to an RFP;

(C) Takes actions that are intended to inhibit or prevent the operation of an open, competitive bid or proposal process; or

(D) Acts in a manner contrary to sound or ethical business practice, or in a manner deemed by the Commissioner of Administration to be detrimental to state leasing practice.

(8) The Commissioner of Administration may require any bidder/lessor to submit a surety document payable to the state of Missouri to insure compliance with the RFP and/or lease.

(9) The Commissioner of Administration will conduct an evalua-

tion of all proposals in accordance with the RFP, if applicable.

(10) The decision to award a lease to a lessor will be based upon the lowest and best proposal received in accordance with the terms of the RFP, if applicable.

(A) No individual, agency, or organization other than the Commissioner of Administration may obligate the state of Missouri in the procurement of leased real property.

(B) The Commissioner of Administration reserves the right to reject any and all proposals, and may waive any minor informality or irregularity in a proposal.

(C) The lessor will be required to comply with all terms and conditions stipulated in the proposal as accepted.

(11) The Commissioner of Administration may require the successful bidder/lessor to submit specified documents detailing any renovation and/or construction that is to occur on the premises to insure compliance with the proposal.

(12) The Commissioner of Administration may signify that the documents for major construction projects or renovations have been reviewed and accepted by issuing a notice to proceed to the successful bidder/lessor.

(13) In order for any lease of real property to obligate the state of Missouri, the lease must be signed by the Commissioner of Administration or the director of the Division of Facilities Management, Design and Construction, or one of their designees.

(14) The rights and obligations of the lessor and the lessee will be as specified in the lease.

(15) The tenant/using agency will be responsible for the day-to-day operations of the rental facility.

(16) The Commissioner of Administration has the authority to make a one- (1-) time lump-sum payment to a lessor for improvements to a leased facility under the following conditions:

(A) The improvements would provide a direct benefit to the operations of the state's programs but are not covered by the lease, such as maintenance, upkeep, or repair of the facility;

(B) The amount paid by the Commissioner of Administration for the construction of the improvements is no more than the reasonable cost to construct the improvements; and

(C) The remaining term of the lease, including the lessee's options to renew, exceeds twelve (12) months. A one (1)-time payment may only be made in the last one- (1-) year renewal period of a lease if necessary to meet unforeseen changes in program requirements.

(17) Monies to fund all payments due under lease agreements are appropriated annually by the Missouri General Assembly for one (1) fiscal year beginning July 1. No lease shall be binding on the lessee unless and until appropriations have been made by the Missouri General Assembly and, if applicable, funds have been received from the United States government for any payment therefor. This limitation applies to any fiscal year during the initial period and all renewal periods.

(18) All leases entered into by the Office of Administration will prohibit carrying a firearm or other weapon readily capable of lethal use into the leased premises, subject to the exceptions set forth in 1 CSR 35-1.050.

AUTHORITY: sections 8.110[,] and 8.320, RSMo 2016, and sections 34.030[,] and 37.005, [and 536.025, RSMo 2000 and 536.023.3,] RSMo Supp. [2005] 2017. Original rule filed April

15, 1998, effective Nov. 30, 1998. Emergency amendment filed Oct. 9, 2003, effective Oct. 19, 2003, expired April 15, 2004. Amended: Filed Oct. 9, 2003, effective April 30, 2004. Amended: Filed Oct. 27, 2005, effective April 30, 2006. Amended: Filed Nov. 30, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

PROPOSED RESCISSION

1 CSR 35-2.040 Lease Acquisition. This rule established a uniform procedure for procuring leased real property.

PURPOSE: This rule is being rescinded and combined with other established rules, 1 CSR 35-2.010; 1 CSR 35-2.020; 1 CSR 35-2.030; CSR 35-2.050.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998. Rescinded: Filed Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 1—OFFICE OF ADMINISTRATION
Division 35—Division of Facilities Management
Chapter 2—Leasing**

PROPOSED RESCISSION

1 CSR 35-2.050 Management of Leased Real Property. This rule established a uniform procedure for managing leased real property.

PURPOSE: This rule is being rescinded and combined with other established rules, 1 CSR 35-2.010; 1 CSR 35-2.020; 1 CSR 35-2.030; 1 CSR 35-2.040.

AUTHORITY: section 34.030, RSMo 1994. Original rule filed April 15, 1998, effective Nov. 30, 1998. Rescinded: Filed Nov. 30, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies

or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Office of Administration, PO Box 809, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PROPOSED RULE

2 CSR 70-17.010 Definitions

PURPOSE: This rule lists definitions for Chapter 17.

The terms defined in sections 195.010 and 195.740, RSMo in addition to other relative terms pertaining to the industrial hemp agricultural pilot program will be applied for use in 2 CSR 70-17.010 to 2 CSR 70-17.120.

(1) Agricultural Hemp Seed Production Permit – permit issued by the Missouri Department of Agriculture to registered growers and handlers engaged in the production of agricultural hemp seed that:

- (A) Is sold or intended to be sold to registered growers for planting; or
- (B) Remains capable of germination.

(2) Applicant – a person, joint venture, or cooperative who submits an application for registration as a grower and/or handler.

(3) CBD – cannabidiol.

(4) Certificate of analysis – a certificate from an independent testing laboratory describing the results of the laboratory's testing of a sample.

(5) Certified agricultural hemp seed – seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of any country, state, territory, or possession of the United States to officially certify seed and that has standards and procedures approved by the Association of Official Seed Certifying Agencies (AOSCA) to assure the genetic purity and identity of the seed certified.

(6) Cooperative – organization that is owned and run jointly by its members, who share the profits or benefits.

(7) Delta-9 THC – delta-9 tetrahydrocannabinol.

(8) Department – The Director of the Department of Agriculture and all department employees.

(9) Destroy/destruction – rendered unusable by burning or incorporating with other materials in a manner approved by the Missouri State Highway Patrol.

(10) Grower registration – registration issued by the Missouri Department of Agriculture to applicants for production and cultivation of industrial hemp.

(11) Handler registration - registration issued by the Missouri Department of Agriculture to applicants for processing industrial hemp into publicly marketable hemp products.

(12) Harvest - the termination of the cultivation process, including taking cuttings.

(13) Hemp extract - an extract from a cannabis sativa L. plant or a mixture or preparation containing cannabis sativa L. plant material that is composed of no more than three-tenths of one percent (0.3%) delta-9 THC on a dry weight basis.

(14) Independent testing laboratory - a laboratory:

(A) With respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a business that:

1. Cultivates, processes, dispenses, or sells industrial hemp or marijuana;

2. Processes or sells hemp extract, CBD, or other similar substance in another state or jurisdiction; and

(B) That is accredited as a testing laboratory to International Organization for Standardization (ISO) 17025 by a third party accrediting body such as the American Association for Laboratory Accreditation (A2LA) or Assured Calibration and Laboratory Accreditation Select Services (ACLASS).

(15) Industrial Hemp - as defined in section 195.010 (24), RSMo.

(16) Joint venture - a commercial enterprise undertaken jointly by two (2) or more persons that otherwise retain their distinct identities.

(17) Legal age - eighteen (18) years of age or older.

(18) Person - includes, but is not limited to, a natural person, sole proprietorship, partnership, limited liability corporation, limited liability partnership, company, corporation, association, government agency or governmental subdivision, business, or non-profit organization.

(19) Plot of Land - means a contiguous parcel of land registered with the department on which a registrant plans to cultivate industrial hemp.

(20) Publicly marketable hemp product - any industrial hemp product that does not include any living hemp plants, viable seeds, viable roots, leaf materials, or floral materials, and contains no material with a delta-9 THC concentration exceeding three-tenths of one percent (0.3%) on a dry weight basis.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp

PROPOSED RULE

2 CSR 70-17.020 Industrial Hemp Pilot Program Registration Application (Grower and Handler Application Requirements, Selection Process, Application Period, and Fees)

PURPOSE: This rule explains the grower and handler application requirements, selection process, application period, and fees.

(1) Each applicant for an Industrial Hemp Agricultural Pilot Program Grower and/or Handler Registration must complete and submit an application for registration on a form provided by the department. Applications must be postmarked by the deadline for closing the application period. Notice of the open application period will be posted on the department's website.

(2) Growers engaged in the production and cultivation of agricultural hemp seed shall obtain an agricultural hemp seed production permit.

(3) Handlers engaged in the processing and/or distribution of agricultural hemp seed to registered growers shall obtain an agricultural hemp seed production permit.

(4) Growers and/or handlers must apply for separate registrations for each plot of land, location, facility, or establishment where industrial hemp will be grown or handled.

(5) Completed applications must provide the following information:

(A) The complete legal name, mailing address, email, and phone number of the applicant;

(B) The applicant's state of residence or state in which the entity is domiciled;

(C) Type of business entity: person, cooperative, or joint venture;

(D) Type of registration: grower or handler;

(E) Request for Agricultural Hemp Seed Production Permit, if applicable;

(F) Legal description, street address, and Global Positioning System (GPS) coordinates for the plot of land used for cultivating industrial hemp and the industrial hemp storage facility location, if applicable;

(G) Legal description, street address, and Global Positioning System (GPS) coordinates for the industrial hemp processing facility and industrial hemp storage facility location, if applicable;

(H) Global Positioning System (GPS) coordinates for each variety of industrial hemp planted;

(I) An industrial hemp production, research, and marketing plan;

(J) The application for a grower registration must include submission of:

1. Any evidence of farming experience for the department's consideration, such as a copy of an IRS Schedule F federal tax form for at least one (1) of the past three (3) years, the applicant's farm serial number (FSN) issued by the United States Department of Agriculture-Farm Service Agency, or evidence of agricultural education;

2. A detailed map of the plot of land on which the applicant plans to grow industrial hemp, showing the boundaries and dimensions of the growing area in acres and the location of different varieties within the growing area;

3. Requested number of acres for production and cultivation of industrial hemp;

4. Variety of certified agricultural hemp seed to be planted and the number of acres of each variety. In subsequent renewal years, the variety of certified agricultural hemp seed to be planted and the number of acres of each variety must be provided at the time of renewal;

5. A statement of verification and supporting documentation that the registered grower has reasonable grounds to believe that the certified agricultural hemp seed to be planted is of a type and variety that will produce a delta-9 THC concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis;

6. Documentation verifying any non-certified agricultural hemp seed to be planted is enrolled in the Missouri Crop Improvement Association's certification or heritage program.

(6) No applicant younger than the legal age will be issued a grower or handler registration.

(7) Applications must be submitted along with a nonrefundable application fee of one hundred dollars (\$100) per type of registration, made payable to the Missouri Department of Agriculture. Institutions of higher education are exempt from the application fee.

(8) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person, cooperative, or joint venture shall not be a participant in the department's pilot program until the applicant has executed a grower registration agreement, paid all registration fees, and received from the department an issued registration.

(9) The department will select applicants for a grower registration by scoring the following factors:

- (A) Application for registration;
- (B) Applicant's farming experience;
- (C) Detailed map of the plot of land on which industrial hemp will be cultivated; and
- (D) Applicant's industrial hemp production, research, and marketing plan.

In the event there is a tie between applicants for a grower registration, the department will select the applicant that received the highest score on farming experience. If a tie score still remains, the department will select the applicant that received the highest score on the industrial hemp production, research, and marketing plan.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will annually cost public entities thirty-five thousand nine hundred fifty-nine dollars (\$35,959) in the aggregate.

PRIVATE COST: This proposed rule will annually cost private entities eight thousand dollars (\$8,000) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Name:	2 CSR 70-17.020 Industrial Hemp Pilot Program Registration Application (Grower and Handler Application Requirements, Selection Process, Application Period and Fees)
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Agriculture	\$35,959 annually

III. WORKSHEET

The estimated FY 21 expenses for PS, EE, and Fringe total \$143,837. Approximately 25% of the annual total expense will go toward the requirements in this rule.

IV. ASSUMPTIONS

Assuming 200 growers and 40 handlers apply.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.020 Industrial Hemp Pilot Program Registration Application (Grower and Handler Application Requirements, Selection Process, Application Period and Fees)
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
240	Grower and handler applicants	\$8,000 annually

III. WORKSHEET

240 applicants x \$100 / 3 years = \$8,000 annually.

IV. ASSUMPTIONS

An estimated 240 growers and handlers will pay the \$100 application fee in the first three years of the program.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PROPOSED RULE

**2 CSR 70-17.030 State and Federal Criminal History
Background Check (When Required, Process, and Fees)**

PURPOSE: This rule explains the state and federal criminal history background check requirements.

- (1) Each applicant for a grower and/or handler registration must complete and pay for a state and federal criminal background check for initial registration and renewal.
- (2) All required state and federal criminal background checks shall be delivered to the department with the application for registration.
- (3) All required state and federal criminal background checks must be submitted along with the application for registration renewal.
- (4) Failure to submit all required state and federal criminal background checks with the application or the request to renew the registration shall be grounds for denial of registration.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will annually cost private entities four thousand dollars (\$4,000) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.030 State and Federal Criminal History Background Check (When Required, Process, and Fees)
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
240	Grower and handler applicants	\$4,000 annually

III. WORKSHEET

240 applicants x estimated \$50 per criminal history background check / 3 years – \$4,000 annually.

IV. ASSUMPTIONS

An estimated 240 growers and handlers will pay the criminal history background check in the first 3 years of the program.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp

PROPOSED RULE

2 CSR 70-17.040 Industrial Hemp Pilot Program Grower and Handler Registration Agreement

PURPOSE: This rule explains the grower and handler registration agreement requirements.

(1) The following terms, conditions, and requirements shall be included in the registration agreement and will be provided to the selected applicants for signature. Applicants shall acknowledge and agree:

(A) The department is implementing an industrial hemp agricultural pilot program to study the growth, cultivation, processing, feeding, and marketing of industrial hemp;

(B) They are the legal authorized representative responsible for representing the person, joint venture, or cooperative;

(C) To comply with applicable laws and regulations;

(D) They have the legal right to plant, grow, cultivate, produce, handle, process, and store industrial hemp on the plot of land;

(E) No plot of land may contain industrial hemp plants or parts thereof that the registered grower and handler knows or has reason to know are of a variety that will produce a plant that when submitted for laboratory analysis will test above three-tenths of one percent (0.3%) delta-9 THC concentration on a dry weight basis. No registered grower or handler shall use any such variety for any purpose associated with the department's industrial hemp agricultural pilot program;

(F) All agricultural hemp seed must be planted on all acres for which the application is approved and must be—

1. Certified agricultural hemp seed;

2. Agricultural hemp seed retained from the registered grower's previous year's crop; or

3. Non-certified seed enrolled in the Missouri Crop Improvement Association's certification or heritage seed programs provided by Section 195.770, RSMo;

(G) All application, registration, permit, and inspection fees are nonrefundable;

(H) The grower registration, handler registration, and/or agricultural hemp seed permit is valid for a three (3) year term, subject to applicable annual renewal fees;

(I) To pay all fees as established in the applicable laws and regulations;

(J) To pay within thirty (30) days of the date of the invoice any inspection and laboratory analysis costs that the department deems necessary;

(K) To allow entry to all land and structures for the purpose of inspection, investigation, and sampling of industrial hemp plants by the department and law enforcement agencies, with or without cause, for compliance and enforcement of the applicable laws and regulations;

(L) To destroy without compensation:

1. Any material found to have a measured delta-9 THC content in excess of three-tenths of one percent (0.3%) on a dry weight basis;

2. Industrial hemp plants located in an area that is not identified on the application for registration;

(M) To adhere to the terms of the application for registration as approved by the department, including conducting the applicant's activities, such as growing or handling, at only the locations listed on the application and approved by the department;

(N) Not to plant industrial hemp within any other crop without written permission from the department;

(O) To hold the department harmless, release the department from liability, and waive the right to sue the department for any claims

arising from industrial hemp or associated activities;

(P) That any time industrial hemp is in transit, the transporter shall have in their possession a copy of the grower registration, handler registration, and/or agricultural hemp seed permit for inspection upon the request of the department or a law enforcement agency;

(Q) To notify the department of any interaction with law enforcement regarding requirements of the applicable laws and regulations. Notification must be made within forty-eight (48) hours by phone and in writing within five (5) calendar days of the occurrence;

(R) To notify the department and law enforcement of any theft of industrial hemp. Notification must be made within forty-eight (48) hours upon discovery by phone call and in writing within five (5) calendar days of discovery.

(2) Failure to sign the grower and handler registration agreement shall terminate conditional approval of the application.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp

PROPOSED RULE

2 CSR 70-17.050 Stipulations for Registered Growers and Handlers

PURPOSE: This rule explains stipulations for registered growers and handlers.

(1) Planting, cultivating, storing, and/or handling industrial hemp shall not occur within two thousand (2,000) feet of any school, preschool, or daycare. Institutions of higher learning are exempt from this section.

(2) No application or site modification request shall include any plot of land that is not owned or rented by the applicant, registered grower, or registered handler.

(3) Registered growers and registered handlers must also obtain an agricultural hemp seed permit to sell agricultural hemp seed.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities

more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp

PROPOSED RULE

2 CSR 70-17.060 Modification of Grower and Handler Applications and Fees

PURPOSE: This rule explains the process of modifying grower and handler applications and the associated fees.

(1) Any applicant, grower, and/or handler requesting to alter the information on the application for registration must submit a new application reflecting the new information.

(2) Any registered grower requesting to change the plot of land location or decrease the total number of acres to be planted must submit a revised application and a nonrefundable fee of two hundred fifty dollars (\$250). Institutions of higher education are exempt from this fee.

(3) Any registered grower requesting to alter the application or registration for the purpose of increasing the number of acres to be planted must submit a revised application and a nonrefundable fee of two hundred fifty dollars (\$250), plus two hundred dollars (\$200) per additional acre. Institutions of higher education are exempt from these fees.

(4) Written approval or registration from the department must be received prior to purchasing, planting, handling, storing, offering for sale, or selling any industrial hemp or agricultural hemp seed at the new location.

(5) Any request to alter industrial hemp production and cultivation, handling, processing, or storage sites must comply with the stipulations found in 2 CSR 70-17.050.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will annually cost private entities four thousand two hundred fifty dollars (\$4,250) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.060 Modification of Grower and Handler Applications and Fees
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
17	Grower and handlers	\$4,250

III. WORKSHEET

17 growers or handlers x \$250 = \$4,250

IV. ASSUMPTIONS

An estimated 10 % of the 170 registered growers and handlers will modify their application.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp

PROPOSED RULE

2 CSR 70-17.070 Industrial Hemp Registration Fees (Renewal of Registrations) and Other Fees

PURPOSE: This rule explains registration and other related fees.

(1) Upon the department's selection of the application, the applicant will be provided an Industrial Hemp Pilot Program Grower and Handler Registration Agreement to be signed and submitted along with the applicable registration fees. Institutions of higher education are exempt from these fees.

(A) Grower registration fee: five hundred dollars (\$500) plus—

1. Forty-five dollars (\$45) per acre to be planted.

(B) Handler registration fee: five hundred dollars (\$500) plus—

1. For processing the grain component of industrial hemp: five hundred dollars (\$500);

2. For processing the fiber component of industrial hemp: five hundred dollars (\$500);

3. For processing the leaf and/or floral material component of industrial hemp (hemp extract and/or CBD): three thousand dollars (\$3,000); or

4. If processing more than one (1) component, the handler shall pay the fee associated with each component.

(C) Agricultural Hemp Seed Production Permit fee: five hundred dollars (\$500).

(2) Registered growers must pay an annual renewal fee of forty-five dollars (\$45) per acre for the second and third year of registration.

(3) Registered handlers must pay an annual renewal fee equal to the applicable processing fees listed in this section in (1)(B)1. through 4. for the second and third year of registration.

(4) Registrations are effective on the date originally issued by the department and will expire three (3) years after the date of issuance.

(5) Applications for registration renewal must be received no more than one hundred twenty (120) days and no less than thirty (30) days prior to the expiration of the three- (3-) year registration. Registered growers and handlers shall be required to satisfy all requirements for registration as if never before registered, including completion of an acceptable state and federal criminal background check. Registered growers will be considered first for subsequent three- (3-) year registration renewals.

(6) If unaccounted acres are available for production and cultivation, the department will announce an open application period on the department's website. During this period, the department will consider new applications and registration modifications for the acreage.

(7) When destruction is required, the department will assess to the registered grower an appropriate destruction certification fee. Such fee will be commensurate with the Missouri Highway Patrol or local law enforcement agencies' costs for certifying crop destruction. Such fee shall be paid within thirty (30) days of receiving an invoice.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will annually cost public entities thirty-five thousand nine hundred fifty-nine dollars (\$35,959) in the aggregate.

PRIVATE COST: This proposed rule will annually cost private entities one hundred seventy-nine thousand four hundred sixteen dollars (\$179,416) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** 2 - Agriculture
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Name:	2 CSR 70-17.070 Industrial Hemp Registration Fees (Renewal of Registrations) and Other Fees
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Agriculture	\$35,959 annually

III. WORKSHEET

The estimated FY 21 expenses for PS, EE, and Fringe total \$143,837. Approximately 25% of the annual total expense will go toward the requirements in this rule.

IV. ASSUMPTIONS

Assuming 170 growers and 40 handlers are registered.

FISCAL NOTE PRIVATE COST

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.070 Industrial Hemp Registration Fees (Renewal of Registrations) and Other Fees
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
170	Growers and handlers	\$179,416

III. WORKSHEET

150 growers x \$500 registration fee every 3 years = \$25,000 annually.
 2000 acres x \$45 = \$90,000 annually.
 25% of growers x \$500 ag hemp seed permit every 3 years = \$6,250 annually.

20 handlers x \$500 registration fee every 3 years = \$3,333
 35% of handlers x \$500 grain processing fee = \$3,500
 25% of handlers x \$500 fiber processing fee = \$2,500
 80% of handlers x \$3,000 floral processing fee = \$48,000
 25% of handlers x \$500 ag hemp seed permit every 3 years = \$833

Total annual grower and handler fees required in this rule = \$179,416.

IV. ASSUMPTIONS

Estimates for the number of growers and handlers requesting the various registrations are based on industrial hemp program participation values in Kentucky.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PROPOSED RULE

2 CSR 70-17.080 Site Access for Missouri Department of Agriculture (MDA) and Law Enforcement Inspection and Sampling

PURPOSE: This rule explains the site access requirements.

(1) The department will provide information to the Missouri Highway Patrol about the registered grower and handler operation as it relates to the growing, cultivation, processing, and storage of industrial hemp at locations as indicated on the application for registration.

(2) Registered growers and handlers shall have no reasonable expectation of privacy from the department or law enforcement, with respect to the plot of land where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are located as indicated on the application for registration.

(3) A registered grower and handler, whether present or not, must permit the department or a representative of any law enforcement agency to enter the plot of land, with or without cause, where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are located or cultivated and any land or structure where agricultural hemp seeds, industrial hemp plants, or industrial hemp plant materials are processed, stored, or held for sale, with or without cause.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

(1) All registered growers and handlers are subject to inspection, investigation, and sampling to verify compliance with the applicable laws and regulations.

(2) Registered growers and handlers shall reimburse the department for all related inspection, investigation, and sampling costs including mileage charged at the federal mileage rate, within thirty (30) days of the invoice.

(3) If the department collects samples for testing, registered growers and handlers shall reimburse the department for all related laboratory analysis costs within thirty (30) days of the date of the invoice.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will annually cost public entities seventy-one thousand nine hundred nineteen dollars (\$71,919) in the aggregate.

PRIVATE COST: This proposed rule will annually cost private entities five thousand six hundred twenty-five dollars (\$5,625) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PROPOSED RULE

2 CSR 70-17.090 Inspection of Site, Crop, and Sampling Requirements for Laboratory Analysis (Responsibilities of Registered Grower and Handler)

PURPOSE: This rule explains site inspections, crop inspections, and sampling requirements.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Name:	2 CSR 70-17.090 Inspection of Site, Crop, and Sampling Requirements for Laboratory Analysis (Responsibilities of Registered Grower and Handler)
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Department of Agriculture	\$71,919

III. WORKSHEET

The estimated FY 21 expenses for PS, EE, and Fringe total \$143,837. Approximately 50% of the annual total expense will go toward the requirements in this rule.

IV. ASSUMPTIONS

Assuming 170 growers and handlers are registered.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.090 Inspection of Site, Crop, and Sampling Requirements for Laboratory Analysis (Responsibilities of Registered Grower and Handler)
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
50	Growers and handlers	\$5,625

III. WORKSHEET

MDA will inspect 50 sites per year. Each inspection will take 4 hours (@ \$25 per hour) and \$12.50 travel expenses.

$$50 \times \$112.50 = \$5,625$$

IV. ASSUMPTIONS

Inspection time and travel expense.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PROPOSED RULE

2 CSR 70-17.100 Sampling Requirements

PURPOSE: This rule explains the sampling requirements for the program.

(1) All industrial hemp varieties planted and cultivated within a plot of land must be sampled to ensure compliance with the applicable laws and regulations.

(2) Registered growers must collect samples in accordance with the department's sampling protocol within fifteen (15) days prior to harvest.

(3) Each variety of industrial hemp must be sampled and analyzed by an independent testing laboratory for analysis for delta-9 THC concentration on a dry weight basis.

(4) Sampled plant material from multiple varieties shall not be commingled.

(5) One (1) duplicate composite sample of each variety of industrial hemp must be collected and retained by the registered grower in accordance with established department protocols, to be analyzed if the original composite sample certificate of analysis reports greater than three-tenths of one percent (0.3%) delta-9 THC concentration on a dry weight basis.

(6) Registered growers must maintain a copy of each certificate of analysis as part of the Industrial Hemp Plant Monitoring System for a period of three (3) years from date of analysis.

(A) Registered growers must provide to a registered handler or processor a copy of each certificate of analysis for each variety of industrial hemp distributed or sold.

(B) Registered growers must submit to the department, within three (3) business days of receipt, copies of all certificates of analysis showing a delta-9 THC concentration on a dry weight basis greater than three-tenths of one percent (0.3%) as evidence that the industrial hemp variety is not in compliance with applicable laws and regulations. Upon receipt of each certificate of analysis showing noncompliance, the registered grower will submit the retained duplicate composite sample for that variety from the same plot of land to be immediately delivered to the independent testing laboratory for analysis.

(C) Registered growers must submit to the department, within three (3) business days of receipt, each duplicate composite certificate of analysis. The department will issue to the registered grower an order for destruction for the specific industrial hemp variety testing out of compliance. Destruction must be completed by the registered grower within ten (10) days of receipt of the department's order for destruction.

1. The registered grower must maintain a destruction report.

2. The registered grower must submit a copy of the destruction report to the department within three (3) days of crop destruction and the department will notify the Missouri Highway Patrol and local law enforcement of crop destruction.

(7) Registered growers are financially responsible for all costs associated with contracting laboratory services, sample collection, delivery of samples to the independent testing laboratory, and laboratory analysis.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will annually cost private entities thirty thousand dollars (\$30,000) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: 2 - Agriculture**
Division Title: 70 – Plant Industries
Chapter Title: 17 – Industrial Hemp

Rule Number and Title:	2 CSR 70-17.100 Sampling Requirements
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
150	Growers	\$30,000

III. WORKSHEET

150 growers x 2 samples per year x \$100 = \$30,000 annually.

IV. ASSUMPTIONS

An estimated 150 growers will average 2 varieties of industrial hemp. Cost per sample based on Kentucky data.

Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp

PROPOSED RULE

2 CSR 70-17.110 Industrial Hemp Plant Monitoring System (Records, Reports, and Data Maintained for Cultivating, Sampling, Certificates of Analysis, Storing, Processing, Destruction, and Sale or Distribution of Industrial Hemp)

PURPOSE: This rule explains the industrial hemp plant monitoring system requirements.

(1) All registered growers and handlers must keep and maintain an Industrial Hemp Monitoring System for all records, reports, data, and certificates of analysis relating to the planting, cultivation, harvest, sampling, processing, storage, destruction, sale, or distribution of industrial hemp. All records, reports, data, and certificates of analysis must be kept for a period of three (3) years from the date of each activity.

(2) All hemp monitoring system data shall be available for inspection and auditing at a reasonable time during regular business hours, or upon request in writing. The department shall be furnished complete copies of these records within ten (10) business days of receipt of request.

(3) Contents of an Industrial Hemp Plant Monitoring System include:

(A) Planting Reports—

1. Registered growers must record, within ten (10) days of planting, a planting report, including the replanting of seeds or propagules on a plot of land. For each industrial hemp variety planted, the planting report shall contain:

- A. GPS coordinates for the plot of land;
- B. The number of acres of each variety planted;
- C. The GPS coordinates for each variety planted; and
- D. The seed bag label or tag, bulk seed certificate, and/or complete variety name of propagule(s).

(B) Sample Analysis Reports—

1. Certificates of analysis must be kept and maintained for all industrial hemp varieties sampled and tested by an independent testing laboratory. Certificates of analysis must be kept and maintained for a period of three (3) years from date of analysis.

2. Documentation of the registered grower notification to the department for all certificates of analysis showing a delta-9 THC concentration in excess of three-tenths of one percent (0.3%) on a dry weight basis.

3. Documentation verifying that copies of certificates of analysis were provided for each industrial hemp variety distributed or sold to a registered handler or processor.

(C) Destruction Reports—

1. Within three (3) days of crop destruction the registered grower must produce a destruction report, including:

- A. Copy of the department's order of destruction or a written statement justifying the destruction of an industrial hemp crop;
- B. Number of acres of each variety destroyed;
- C. Date of destruction; and
- D. Method of destruction.

(D) Harvest Reports—

1. Within ten (10) days of harvest, the registered grower must produce for each industrial hemp variety harvested, a harvest report including:

- A. Date of harvest for each variety;
- B. Number of acres of each variety harvested;
- C. Amount of each industrial hemp variety harvested;
- D. Location of storage;
- E. Date and amount of industrial hemp transferred to each

registered handler or processor; and

F. Name of registered handler or processor, handler registration number and registration expiration date, and processing facility location address.

(E) Handling Reports—

1. Within ten (10) days of purchase, storage, disposal, or processing, the registered handler must produce:

A. Copies of industrial hemp purchasing agreements with registered growers;

B. Copies of all certificates of analysis for all industrial hemp varieties obtained from registered growers;

C. Weekly inventory reports of each variety of industrial hemp being stored and processed, including:

- (I) Date of inventory;
- (II) Location of stored inventory;
- (III) Total amount of industrial hemp and seed of each variety;

(IV) Total amount of unusable industrial hemp and seed of each variety; and

(V) Name, signature, and title of the employee performing inventory.

D. Disposal records for all unusable industrial hemp and seed, including the following:

- (I) Date of disposal;
- (II) Amount of industrial hemp disposed;
- (III) Disposal or destruction method;
- (IV) Location of disposal or destruction;
- (V) Complete variety name; and
- (VI) Name, signature, and title of employee responsible for disposal or destruction.

E. Processing records, including the following:

- (I) List of products produced from industrial hemp;
- (II) Address or location of processing facility;
- (III) List of buyers including:
 - (a) Name, address, and phone number of buyer;
 - (b) Products purchased;
 - (c) Quantity of each product purchased; and

F. Date of distribution.

(F) Seed Reports—

1. Within ten (10) days of storing, distributing, or selling agricultural hemp seed, a registered grower or handler with an agricultural hemp seed production permit must produce:

A. Amount of each variety of agricultural hemp seed the registered grower is retaining from the current season's crop for next year's planting;

B. Amount of each variety of industrial hemp in the registered handler's inventory and documentation verifying the origin of the agricultural hemp seed;

C. Distribution and Sales records—

(I) Name, address, phone number, registration number, and registration expiration date of the registered grower distributing or selling agricultural hemp seed;

(II) Date of transaction, sale, or distribution;

(III) Complete variety name;

(IV) Amount of each variety sold or distributed; and

(V) Name, address, registration number, registration expiration date, and phone number of registered grower to whom the agricultural hemp seed was distributed or sold.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 17—Industrial Hemp**

PROPOSED RULE

2 CSR 70-17.120 Revocation of Registration

PURPOSE: This rule explains registration revocations.

(1) The department may immediately revoke a registration or permit if the registered grower, registered handler, and/or signing authority pleads guilty to, pleads *nolo contendere* to, or is convicted of, any felony or drug-related misdemeanor.

(2) The department may immediately revoke a registration or permit if the registered grower, registered handler, and/or signing authority admits or is found by the department to have:

(A) Violated any provision of sections 195.203 to 195.773, RSMo or any regulation promulgated thereunder;

(B) Made any false statement to the department, the Missouri Highway Patrol, or any law enforcement agency;

(C) Failed to comply with any order from the department, the Missouri Highway Patrol, or any law enforcement agency; or

(D) Violated the registration agreement required in 2 CSR 70-17.040.

(3) Any registered grower or handler whose registration or permit has been revoked shall not harvest, process, store, distribute, sell, or remove industrial hemp from any location except as authorized in writing by the department.

(4) The department may schedule a registration revocation hearing after the notification of revocation has been issued.

AUTHORITY: section 195.773, RSMo Supp. 2018. Original rule filed Nov. 20, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, ATTN: John Brunnert, PO Box 630, 1616 Missouri Boulevard, Jefferson City, MO 65102, or online at Agriculture.Mo.Gov/proposed-rules/. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.235 Filing Requirements for Gas Utility General Rate Increase Requests. This rule prescribed information which

must be filed by all gas utilities when filing for a general company-wide increase in rates. As noted in the rule, additional provisions pertaining to the filing requirements for general rate increase requests are found at 4 CSR 240-3.030.

PURPOSE: This rule is being consolidated and streamlined into Chapter 40.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Nov. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before February 1, 2019, and should include a reference to Commission Case No. GX-2018-0390. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for February 6, 2019 at 11:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.260 Filing Requirements for Gas Utility Rate Schedules. This rule prescribed the forms and procedures for filing and publishing schedules of rates of all gas utilities under the jurisdiction of the Public Service Commission.

PURPOSE: This rule is being replaced with an updated rule in Chapter 40.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Nov. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before February 1, 2019, and should include a reference to Commission Case No. GX-2018-0390. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for February 6, 2019 at 11:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.275 Submission Requirements for Gas Utility Depreciation Studies. This rule set forth the requirements regarding the submission of depreciation studies by gas utilities.

PURPOSE: This rule will be consolidated and streamlined into a new rule in Chapter 40.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded: Filed Nov. 28, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before February 1, 2019, and should include a reference to Commission Case No. GX-2018-0390. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for February 6, 2019 at 11:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing

at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED RULE

4 CSR 240-40.085 Filing Requirements for Gas Utility Rate Schedules

PURPOSE: This rule streamlines provisions formerly in Chapter 3.

(1) Every gas corporation engaged in the manufacture, furnishing, or distribution of gas of any nature whatsoever for light, heat, or power, within the state of Missouri, is directed to have on file with this commission and keep open for public inspection, schedules showing all rates and charges in connection with such service of whatever nature made by the gas corporations for each and every kind of service which it renders together with proper supplements covering all changes in the rate schedules authorized by this commission if any.

(2) Rate schedules shall be drawn up substantially in accordance with Form No. 14 and shall be plainly printed or typewritten on good quality paper of size eight and one-half inches by eleven inches (8 1/2" × 11") in book, sheet, or pamphlet form. A loose-leaf plan may be used so changes can be made by reprinting and inserting a single leaf. When the loose-leaf plan is used, all sheets, except the title page sheet, must show in the marginal space at the top of the page—the name of the gas corporation issuing, the Public Service Commission (PSC) number of schedule, and the number of the page. In the marginal space at the bottom of sheet should be shown—the date of issue, the effective date, and the name, title and address of the officer by whom the schedule is issued. All schedules shall bear a number with the prefix PSC Mo. _____. Schedules shall be numbered in consecutive serial order beginning with number 1 for each gas corporation. If a schedule or part of a schedule is cancelled, a new schedule or part thereof (sheet(s) if loose-leaf) will refer to the schedule canceled by its PSC number; thus: PSC Mo. No. _____ canceling PSC Mo. No. _____.

(3) Each schedule shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, which shall be prepared consistent with the format designated by the commission.

(4) All proposed changes in rates, charges, or rentals or in rules that affect rates, charges, or rentals filed with the commission shall be accompanied by a brief summary, approximately one hundred (100) words or less of the effect of the change on the company's customers. A copy of any proposed change and summary shall also be served on the public counsel and be available for public inspection and reproduction during regular office hours at the general business office of the utility.

(5) Thirty (30) days' notice to the commission is required as to every publication relating to gas rates or service except where publications are made effective on less than statutory notice by permission, rule, or requirement of the commission.

(6) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which the schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by

the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice, it is as if it had not been issued and a full statutory notice must be given of any reissuance. No consideration will be given to telegraphic notices in computing the thirty (30) days' notice required. In those cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which the schedule or supplement was received and the date of the attempted correction. For rate schedules and supplements issued on short notice under special permission of the commission, literal compliance with the requirements for notice named in any order, rule, or permission granted by the commission will be exacted.

AUTHORITY: sections 386.250 and 393.140, RSMo 2016. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before February 1, 2019, and should include a reference to Commission Case No. GX-2018-0390. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for February 6, 2019 at 11:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED RULE

4 CSR 240-40.090 Submission Requirements for Gas Utility Depreciation Studies

PURPOSE: This rule streamlines provisions from rules formerly in Chapter 3.

(1) Each gas utility subject to the commission's jurisdiction shall submit a depreciation study, database and property unit catalog to the manager of the commission's engineering analysis unit and to the Office of the Public Counsel, as required by the terms of subsection (1)(B).

(A) The depreciation study, database and property unit catalog shall be compiled as follows:

1. The study shall reflect the average life and remaining life of

each primary plant account or subaccount;

2. The database shall consist of dollar amounts, by plant account or subaccount, representing—

A. Annual dollar additions and dollar retirements by vintage year and year retired, beginning with the earliest year of available data;

B. Reserve for depreciation;

C. Surviving plant balance as of the study date; and

D. Estimated date of final retirement and surviving dollar investment for each warehouse, propane/air production facility, liquefied natural gas facility, underground natural gas storage facility, general office building, or other large structure; and

3. The property unit catalog shall contain a description of each retirement unit used by the utility.

(B) A gas utility shall submit its depreciation study, database, and property unit catalog on the following occasions:

1. On or before the date adjoining the first letter of the name under which the corporation does business, excluding the word the, as indicated by the tariffs on file with the commission.

A. The alphabetical categories and submission due dates are as follows:

(I) A, B, C, D: January 1, 1994;

(II) E, F, G, H: July 1, 1994;

(III) I, J, K, L: January 1, 1995;

(IV) M, N, O, P: July 1, 1995;

(V) Q, R, S, T: January 1, 1996; and

(VI) U, V, W, X, Y, Z: July 1, 1996.

B. However—

(I) A gas utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the due dates listed in subparagraph (1)(B)1.A.; and

(II) A utility with simultaneous due dates under subparagraph (1)(B)1.A. above and 4 CSR 240-3.175(1)(B)1. may postpone its due date with respect to one (1) of these rules by six (6) months. To exercise this option, the utility must give written notice of its intent to postpone compliance to the manager of the commission's engineering analysis unit, and to the Office of the Public Counsel, before the utility's first due date;

2. Before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database, and property unit catalog from the utility;

3. Upon submission of a general rate increase request. However, a gas utility need not submit a depreciation study, database, or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database, and property unit catalog from the utility.

AUTHORITY: section 386.250, RSMo 2016. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102-0360. To be considered, comments must be received at the commission's offices on or before February 1, 2019, and should include a reference to Commission Case No. GX-2018-0390. Comments may also be submitted via a filing using the commission's electronic filing and information system at

http://www.psc.mo.gov/efis.asp. A public hearing is scheduled for February 6, 2019 at 11:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.

SPECIAL NEEDS: Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 100—Office of Quality Schools**

PROPOSED AMENDMENT

5 CSR 20-100.260 Standards for Charter Sponsorship. The State Board of Education is amending sections (1) and (2), deleting sections (3)–(8), and adding new sections (3)–(6).

PURPOSE: This amendment is necessary to update the sponsorship standards to current best practice and national authorizing standards.

(1) Standard 1—Sponsor Commitment and Capacity. The sponsor *[recognizes]* believes that chartering is a means to *[foster excellent]* provide children with access to quality public schools that meet identified needs*[,].* The sponsor creates organizational systems and structures to *[facilitate meeting these needs,]* fulfill its sponsorship duties and commits human and financial resources necessary to conduct its sponsoring duties effectively and efficiently. The sponsor shall *[implement steps to closely monitor the following:]*—

[(A) Provides capacity to serve as a sponsor by employing, contracting for services, or seeking expertise in other ways to ensure capacity to carry out all sponsoring activities essential to charter school oversight (including, but not limited to, education leadership, curriculum, instruction, assessment, special education, federal programs, performance accountability, law, finance, and nonprofit governance);

(B) Retains records showing that all individuals working in a sponsor's office and/or in the capacity of sponsor who have any contact with students complete a criminal background check and Missouri's Family Care Safety Registry (FCSR) check as outlined in section 168.133.1, RSMo;

(C) Provides capacity within their organization to review all data for charter schools in the Missouri Comprehensive Data System (MCDS) as outlined in section 160.400.11(5), RSMo;

(D) Ensures development of policies and procedures as outlined by section 160.400.16(1)–(6), RSMo;

(E) Provides an annual report showing that ninety percent (90%) of state funds received for sponsoring are used to support charter school operations and compliance as outlined in section 160.400.11, RSMo; and

(F) Maintains capacity for intervention purposes when charter sponsors have two (2) or more persistently low achieving charter schools, as verified by their Annual Performance Report (APR), before expanding their charter portfolio.]

(A) Ensure that all sponsorship staff and members of the sponsor's decision-making body understand and are committed to

supporting and advancing the purposes of Missouri's charter school law and quality sponsorship practices;

(B) Engage in the sponsorship of charter schools according to the provisions and stipulations of section 160.400.2–5, RSMo, which address the types of entities that may sponsor charter schools and under what conditions;

(C) Employ, contract for, or otherwise provide personnel at a staffing level appropriate and sufficient to carry out its sponsorship duties, which require expertise that includes, but is not limited to, education leadership, curriculum, instruction, assessment, special education, federal programs, performance accountability, data analysis, law, finance, and nonprofit governance;

(D) Provide or provide access to professional development opportunities for staff to achieve and maintain high standards of professional sponsoring practice and to promote continuous improvement;

(E) Retain records showing that all individuals conducting sponsorship work, including any individual who has contact with students, complete a criminal background check and Missouri's Family Care Safety Registry (FCSR) check as outlined in section 168.133.1, RSMo;

(F) Ensure that sponsor staff and members of the sponsor's decision-making body comply with the charter school office's or the sponsor's conflict of interest policy with respect to the charter schools it sponsors;

(G) Regularly evaluate its work against Missouri's charter school law and these standards, and develop and implement timely plans for improvement when it falls short;

(H) Provide an annual report to the joint committee on education, as outlined in section 160.400.12, RSMo, that includes sufficient data and information to demonstrate that the sponsor is in material compliance with sections 160.400 to 160.425, RSMo, and section 167.349, RSMo; and

(I) Annually submit, on the form provided by the Department of Elementary and Secondary Education (department), documentation showing that ninety percent (90%) of state funds expended during said fiscal year, are expended for sponsoring in support of the sponsor's charter school sponsorship program or as a direct investment in the sponsored schools, in accordance with section 160.400.11, RSMo.

(2) Standard 2—Application Process and Decision Making. The sponsor *[shall]* implements *[steps to closely monitor the application]* a comprehensive application process that includes clear application materials and guidance; follows fair, transparent procedures, timelines, and rigorous evaluation criteria; and *[grants only those charter applications that demonstrate a strong capacity to establish and operate a quality charter school.]* approves only those charter applications that demonstrate a strong capacity to establish and operate quality charter schools. To the extent the sponsor is accepting charter applications, *[T]*the sponsor shall *[implement the following:]*—

[(A) Produces a thorough charter application process as outlined in section 160.400.11(2), RSMo, including the items as stated in section 160.405.1(1)–(17), RSMo;

(B) Maintains consistent criteria for accepting, approving, and denying charter applications and does so in accordance with a clearly established timeline;

(C) Requires the charter applicant to provide evidence of accountability regarding stable fiscal and organizational performance included in the charter application process, including:

1. Budget assumptions with balanced budgets; and

2. Positive cash flow reserve funds;

(D) Advises charter applicants of the meaning of local education agency (LEA) status as it concerns the operation of the charter school as permitted in section 160.415.4, RSMo;

(E) Includes additional contractual provisions that verify rigorous, independent contract oversight by the charter governing board and the school's financial independence from the external provider (for any school contracting with a third-party provider for education design and operation or management);

(F) Meets the Missouri Department of Elementary and Secondary Education's (department) timelines by submitting to the State Board of Education (board) any new charter applications before November 30 prior to the school year of the proposed opening date of the charter school. Renewal applications must be submitted before January 1 of the year that the charter is scheduled to be renewed; and

(G) Submit an electronic copy of the approved charter for department files.]

(A) Implement a thorough charter application process as outlined in section 160.400.11(2), RSMo, and according to the timeline outlined in section 160.405.2(1)-(4), RSMo, without requiring any fee from the applicant in accordance with section 160.400.6, RSMo;

(B) Develop and make readily available a charter application that—

1. Includes comprehensive questions to elicit the information needed for a rigorous evaluation of the applicant's plans and capacity in accordance with the requirements stated in section 160.405.1(1)-(17), RSMo;

2. Clearly articulates any chartering priorities the sponsor may have established, including the priority to serve high-risk students in accordance with section 160.405.2(5), RSMo; and

3. Includes clear criteria for the evaluation of charter applications;

(C) Differentiate or supplement application requirements and corresponding evaluation criteria for applicants who currently oversee or manage charter schools in Missouri or other states;

(D) For applicants that are existing school operators, ensure that the application requires—

1. Specific information about the existing operator's prior academic achievement, particularly if the applicant has operated or is operating schools in Missouri, and successful management of nonacademic school functions, including financial and organizational performance, in accordance with section 160.415.7, RSMo;

2. An explanation of any never-opened, terminated, or non-renewed charter schools (including terminated or non-renewed third-party contracts to operate charter schools) within the last five (5) years and other such requirements as outlined in section 160.415.7, RSMo;

3. A description of the existing school operator's proposed growth plan; and

4. The operator's most recent financial audits;

(E) For applicants that intend to contract with an education service provider for substantial educational or charter school management services, ensure that the application requires—

1. A draft of the proposed management services agreement that sets forth proposed key terms, including roles and responsibilities of the charter school governing board, the charter school staff, and the service provider; the services to be provided; the measures by which the charter school governing board will evaluate the service provider; a detailed explanation of compensation to be paid to the service provider; financial controls and oversight; methods of contract oversight and enforcement; and conditions for contract renewal and termination; and

2. A disclosure and explanation of any existing or potential conflicts of interest between the charter school governing board and proposed service provider or any affiliated business entities;

(F) Engage teams of qualified application evaluators with relevant educational, organizational (governance and management), financial, and legal expertise to review and evaluate the charter application according to the established evaluation criteria;

(G) Provide orientation or training to application evaluators to ensure consistency in the application of the approval criteria;

(H) Conduct an in-person interview with each qualified applicant to examine the applicant's experience and capacity, and conduct due diligence to examine the applicant's experience, capacity, and track record of performance;

(I) Advise charter applicants of the meaning of local education agency (LEA) status as it concerns the operation of the charter school as outlined in section 160.415.4, RSMo;

(J) Grant charters only to applicants that have demonstrated competence and capacity to succeed in all aspects of the school, with particular consideration to any available information about schools previously operated in Missouri, if applicable, and consistent with the published application evaluation criteria, in accordance with sections 160.400.11(2) and 160.405.2(2), RSMo;

(K) Promptly notify applicants of approval or denial and, if the charter is denied, notify the applicant in writing explaining the factors that determined the decision in accordance with section 160.405.2(3), RSMo; and

(L) Submit an electronic copy of each approved charter, accompanied by a statement finding that the application meets the statutory requirements and the monitoring plan under which the sponsor will evaluate the academic performance of the charter school, to the department for review by November 10th (or the following Monday if November 10th falls on a Saturday or Sunday) of the year prior to the proposed opening date of the charter school as outlined in and in accordance with section 160.405.3, RSMo.

[(3) Standard 3—Board Support. The sponsor shall implement steps to offer ongoing support, including but not limited to: training, organization, ethical conduct, knowledge, commitment, compliance, leadership oversight, contract management, accountability, transparency, and the interpretation of the Missouri public charter school statutes/rules for charter school board(s). The sponsor shall—

(A) Ensure charter board members have adequate training to fulfill their position;

(B) Place charter schools on probation and/or revoke or non-renew a school's charter for poor governance if the charter school board does not follow statutory requirements, correct violations of statutory requirements, or continues to repeat the same violations, including, but not limited to, the following:

1. The charter board retains status as a Missouri non-profit corporation as outlined in section 160.400.7, RSMo;

2. Charter board members submit ethics commission paperwork annually as outlined in sections 105.483 and 105.492, RSMo;

3. Charter boards have policies in place to prevent conflict of interests with the charter school as outlined in section 160.400.15, RSMo; and

4. All charter board members have criminal background and FCSR checks as outlined in section 160.400.14, RSMo;

(C) Demonstrate oversight of charter boards in a variety of ways, including, but not limited to, reviewing board minutes, attending board meetings, and verifying reporting processes; and

(D) Monitor whether charter school board and committee business is conducted as outlined in the Missouri Sunshine Laws, sections 610.010–610.030, RSMo.

(4) Standard 4—Academic Performance. The sponsor shall take steps to closely monitor state performance standards, as defined by the department, are included in the sponsor/charter contract. The sponsor—

(A) Ensures that performance contracts are aligned to the pupil academic standards adopted by the State Board of Education as outlined in section 160.405.4(6)(a), RSMo;

(B) Mandates intervention based on performance deficiencies as outlined in section 160.405.8(1)(a), RSMo;

(C) Establishes clear procedures and consequences for failure to meet requirements and outcomes set in the sponsor/charter contract; and

(D) Does not approve additional sites or expansion of grade levels for a charter school identified as persistently low achieving, as verified by its APR.

(5) **Standard 5—Fiscal Management.** The sponsor shall implement steps to closely monitor the charter school performance management and financial actions that support a solvent fiscal status, including:

(A) A charter school identified as financially stressed develops a budget and education plan as outlined in section 160.417.3, RSMo. The department may withhold any payment of financial aid due to the charter school until such time as the charter school and sponsor have fully complied as outlined in section 160.417.5, RSMo;

(B) Charter schools that have been notified that expenditures for the preceding fiscal year exceed receipts, must take action to examine whether this has occurred due to recurring costs. If this is the case then the sponsor ensures that a budget and financial plan will be developed by the charter as outlined in section 160.417.3, RSMo;

(C) Reviews annual financial audits of schools, conducted by a qualified independent auditor as stated in section 160.405.4(4), RSMo;

(D) Ensures that adequate financial controls are in place to assure that revenue received for operation of the charter school are expended for expenses related to the operation of the charter school—

1. A requirement that a monthly check register is reviewed and approved by the local board prior to issuing payment for amounts in excess of one thousand dollars (\$1,000); and

2. The bank account where state funds are deposited must be established and under the control of the charter board. If a management company is contracted, personnel associated with the company shall not have direct access;

(E) Closely monitors that charter schools show fiscal management of federal grant programs in accordance with terms outlined in Fiscal Guidance for Federal Grant Programs;

(F) Closely monitors that charter schools have a procurement process in place as required by the Code of Federal Regulations 34 CFR 80.36;

(G) Closely monitors that the Annual Secretary of the Board Report (ASBR) and the annual audit are submitted to the department in the time frame outlined by Missouri statutes and that these documents are not compiled by the same auditing service. The department may withhold any payment of financial aid due to the charter school until such time as the charter school and sponsor have fully complied as outlined in section 160.415.5, RSMo;

(H) Closely monitors that the annual audit summary is published as outlined in section 165.121.5, RSMo; and

(I) Closely monitors that charter schools utilize the coding procedures prescribed in the Missouri Financial Accounting Manual as outlined in section 160.405.1(10), RSMo.

(6) **Standard 6—Reporting.** The sponsor shall implement steps to closely monitor all reports/data required by Missouri and federal law are completed and submitted in a timely manner for the department and/or legislature. The sponsor shall closely monitor the following:

(A) Timely, accurate, and complete submission of all data required as outlined in section 160.400.17(1), RSMo;

(B) Charter schools locally maintain student records that can be transferred electronically for state and federal pro-

gram reporting requirements;

(C) Charter schools retain necessary records as required by the general record retention schedule and the public school record retention schedule as authorized by section 109.255, RSMo;

(D) That an annual report per charter school is submitted to the joint committee on education as outlined in section 160.400.12, RSMo;

(E) Sponsor ensures charter schools adopt policies consistent with the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) guidelines to the extent they are applicable;

(F) Appropriate charter personnel have access to the Missouri Student Information System (MOSIS) and core data; and

(G) That approved changes to a charter throughout the term of the charter will be submitted within thirty (30) days of approval and an electronic copy will be submitted to the department reflecting approved changes.

(7) **Standard 7—Oversight and Evaluation.** The sponsor conducts oversight and evaluates performance for both federal and state compliance. The sponsor shall implement steps to closely monitor the following:

(A) Non-discrimination as required by federal and state laws;

(B) The charter board has a policy to promptly address parent, student, and community concerns at the local level;

(C) Monitors data related to certification and background checks and has policy/intervention plans to address when schools are not in compliance;

(D) The compliance with all state and federal statutes and guidelines, including, but not limited to: special education; all title programs; vocational/career education; food service; and services for foster, homeless, migrant, and English language learner students;

(E) All eligible students participate in the Missouri MAP; and

(F) Charter schools enrolling eligible students under the urban voluntary transfer program (St. Louis metropolitan area) are reported accurately as outlined in section 160.410.1(2), RSMo.

(8) **Standard 8—Intervention, Renewal, Revocation, and Closure Decision Making.** The sponsor shall implement steps to closely monitor transparent and rigorous processes that use comprehensive academic, financial, and operational management data to make decisions about intervention, renewal, revocation, and closure. The sponsor shall implement the following:

(A) Develops and maintains policies that have been adopted for the following areas:

1. Establishes and makes known to schools at the outset an intervention policy stating the general conditions that may trigger intervention and the types of actions and consequences that may ensue;

2. Bases the renewal process and renewal decisions on thorough analyses of a comprehensive body of objective evidence defined by the performance framework in the charter contract. Sponsors grant renewal only to schools that have achieved the standards and targets stated in the charter contract, are organizationally and fiscally viable, and have been diligent to the terms of the contract and applicable law;

3. Revokes a charter during the charter term if there is clear evidence of extreme underperformance or violation of law or the public trust that imperils students or public funds; and

4. *In the event of a school closure, oversees and works with the school governing board and leadership in carrying out a detailed closure protocol that ensures timely notification to parents; orderly transition of students and student records to new schools; and disposition of school funds, property, and assets in accordance with law as outlined in section 160.400.17(1), RSMo.]*

(3) **Standard 3 - Charter Contract.** In accordance with section 160.400.11(3), RSMo, the sponsor executes a charter contract with each charter school that articulates the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, the measures for evaluating success or failure, performance consequences, and other material terms. The sponsor shall—

(A) Execute a charter contract with each approved charter school, which must be organized as a Missouri nonprofit corporation, for an initial term of five (5) years, which may be renewed, in accordance with section 160.405.1(9), RSMo. The charter contract shall define—

1. The standards for intervention, probation, renewal, non-renewal, and revocation while also establishing the consequences for not meeting those standards, in accordance with sections 160.405.8 and 160.405.9(2)–(3) RSMo;

2. A set of reasonable pre-opening requirements or conditions for a new charter school to open to ensure that it meets all health, safety, and other legal requirements prior to opening; and

3. A process that charter schools and sponsors must follow, in accordance with section 160.405.6, RSMo, to amend charter contracts and the types of material modifications that require sponsor approval. The sponsor shall submit any such approved amendments to the department within thirty (30) days of approval;

(B) Include in said charter contract or incorporate by reference clearly defined performance expectations for the term of the contract, the sources of data to evaluate charter school performance against these expectations, and the targets that the charter school must meet to earn renewal in the following areas:

1. Pupil academic standards for all students and significant student subgroups within each charter school, aligned to standards adopted by the State Board of Education, as outlined in and in accordance with sections 160.405.1(7), 160.405.4(6), and 160.405.9(2)(a), RSMo;

2. Financial performance expectations, which measure both near-term and long-term financial health, including, but not limited to, those outlined in section 160.405.9(2)(b), RSMo; and

3. Organizational performance expectations, including, but not limited to, compliance with all governance-related laws, the fulfillment of all state and federal requirements regarding fair and appropriate service to students with disabilities, and the maintenance of a safe and operationally sound facility, as outlined in sections 160.405.4 and 160.405.11–.14, RSMo;

(C) If a charter school is planning to contract with an education service provider for substantial educational or school management services, ensure that the charter contract clearly establishes the primacy of the charter contract over the management services contract; and

(D) To the extent the sponsor, outside of the charter school office, is providing any fee-based services to its charter schools, clearly state in writing, in the charter contract or elsewhere, that such services are not, nor ever will be, a condition of sponsorship.

(4) **Standard 4 - Ongoing Oversight and Evaluation.** The sponsor conducts charter school oversight that evaluates charter school performance; monitors charter school compliance with both federal and state statutes and regulations; ensures charter school autonomy; protects student rights; informs charter school intervention, probation, revocation, and renewal decisions; and pro-

vides annual public reports on charter school performance. The sponsor shall—

(A) Implement a comprehensive performance accountability and compliance monitoring system that—

1. Is defined in the charter contract;

2. Provides the sponsor with the information necessary to make thorough and evidence-based intervention, probation, renewal, non-renewal, and revocation decisions; and

3. Effectively streamlines federal, state, and local performance expectations and compliance requirements while protecting charter school autonomy and minimizing charter school administrative and reporting burdens;

(B) Define and communicate this performance accountability and compliance monitoring system to charter schools, including the process, methods, and timing of gathering and reporting charter school performance and compliance data;

(C) Visit each charter school as appropriate and necessary for collecting data that cannot otherwise be obtained and in accordance with the contract, while ensuring that the frequency, purposes, and methods of such visits respect charter school autonomy and avoids operational interference;

(D) Communicate regularly with charter schools, as needed, including both school leaders and governing boards, and provide timely notice of contract violations, performance deficiencies, and mandated interventions, including probationary status, as outlined in section 160.405.8, RSMo;

(E) In accordance with section 160.405.7, RSMo, evaluate and publish on the sponsor's website an annual performance report for each charter school, which shall include an analysis of each charter school's performance and progress toward meeting the expectations and targets stated in the charter contract, including subgroup performance and essential compliance requirements, and clearly communicate evaluation results to the charter school's governing board and leadership;

(F) Refrain from directing charter school decisions or choices that are appropriately within a school's purview under the charter law or contract;

(G) Monitor compliance with all state and federal requirements and guidelines regarding services to students, including, but not limited to, special education; all title programs; career and technical education; food service; and services for foster, homeless, immigrant, and English language learner students;

(H) Monitor compliance with specific state public education requirements that apply to charter schools, including, but not limited to—

1. Requirements relating to student discipline as outlined in sections 160.261, 167.161, 167.164, and 167.171, RSMo;

2. Notification of criminal conduct to law enforcement authorities as outlined in sections 167.115–117, RSMo;

3. Academic assessment of pupils, including that all eligible students participate in the Missouri Assessment Program (MAP), as outlined in section 160.518, RSMo;

4. Transmittal of charter school records to a requesting school official as outlined in section 167.020, RSMo;

5. Provision of the minimum amount of school time required as outlined in section 171.031, RSMo;

6. For charter school employees and board members, timely completion of criminal history background checks and the family care safety registry checks as outlined in section 168.133, RSMo;

7. Maintenance of policies consistent with the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) guidelines to the extent they are applicable;

8. Certification of staff and participation in the appropriate employee retirement system as outlined in section 160.420, RSMo; and

9. Provision of education and services to students with disabilities, as outlined in sections 162.670 and 162.710, RSMo, the Individuals with Disabilities Education Act (20 U.S.C. Section

1400) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) or successor legislation;

(I) Verify that charter schools admit students through a non-discriminatory process that grants admission to resident and non-resident students eligible to attend through an urban voluntary transfer program or from an unaccredited school district, as outlined in sections 160.410.1 and 160.410.3, RSMo;

(J) Monitor the admission process of any charter school where capacity is insufficient to enroll all students who submit a timely application, to ensure that the process complies with the terms outlined in section 160.410.2, RSMo;

(K) Monitor the charter school board's compliance with various governance-related laws, including, but not limited to—

1. Retention of necessary board records as required by the general record retention schedule and the public school record retention schedule as outlined in section 109.255, RSMo;

2. Submission of ethics commission paperwork annually as outlined in sections 105.483, 105.485, and 105.492, RSMo;

3. Maintenance of conflict of interest policies and procedures to address prohibited conflicts as outlined in section 160.400.15, RSMo;

4. Maintenance of a policy to promptly address parent or guardian grievances, as outlined in section 160.405.1(13), RSMo; and

5. Conduct of board and committee business in a manner outlined in the Missouri Sunshine Laws, sections 610.010-610.030, RSMo; and

(L) Ensure that charter school board members are aware of and have access to professional development or training opportunities to perform and fulfill the duties of a charter school board member.

(5) Standard 5 - Fiscal Oversight. The sponsor monitors the charter school's financial performance and compliance with fiduciary provisions in statute. The sponsor shall—

(A) Collect and review annual financial audits of charter schools, conducted by a qualified independent auditor as outlined in section 160.405.4(4), and verify that the annual audit summary is published as outlined in section 165.121.5, RSMo;

(B) Monitor that charter schools' utilization of the coding procedures prescribed in the Missouri Financial Accounting Manual as outlined in section 160.405.1(10), RSMo;

(C) Monitor that the charter's governing board has adopted adequate financial controls to assure that revenues received for operation of the charter school are expended for expenses related to the operation of the charter school, including, but not limited to—

1. Procedures for the charter board to review the monthly check register, as needed, and clarify what level of expenditure necessitates board review and signature on a specific check;

2. Establishment of a bank account, in which state funds are deposited, that is under the control of the charter board; and

3. If the charter contracts with an education service provider for substantial educational or school management services, establishment of a process to ensure that payments to the service provider receive prior approval of the governing board or its designee, as outlined in section 160.415.7(6), RSMo;

(D) Evaluate each charter school's financial performance against the expectations and targets stated in the charter contract and, by October 1st of each year, identify any charter schools that are financially stressed, as outlined in section 160.417.1, RSMo, and as defined by section 160.417.2, RSMo;

(E) By November 1st of each year, notify the governing board of any charter school that is identified as financially stressed, and review and approve a budget and education plan developed by the charter school, within forty-five (45) calendar days of such notification, on forms provided by the sponsor. In addition to the requirements outlined in section 160.417.3, RSMo, the budget and education plan must clearly outline the basis for such iden-

tification, the steps the charter school will take to remedy the financial stress, responsible individuals, corresponding deadlines and timeframes, the outcomes that the charter school must achieve to exit this designation, and the steps that the sponsor may take, including revocation, if the charter school does not appropriately remedy the financial stress by March 1st of the current school year. The sponsor may also place any school identified as financially stressed on probation in accordance with section 160.405.8, RSMo. The department may withhold any payment of financial aid due to the charter school until the charter school and sponsor have fully complied with this requirement, as outlined in section 160.417.5, RSMo;

(F) To the extent necessary, cooperate with the department in its monitoring of charter schools' fiscal management of federal grant programs, and consider any findings by the department with respect to said fiscal management in sponsor's decision making; and

(G) Ensure that charter schools submit the Annual Secretary of the Board Report (ASBR) and an annual independent financial audit to the department in the time frame outlined by Missouri statute and verify that no conflict of interest exists between the financial auditor and the person or persons who prepared the ASBR.

(6) Standard 6 - Renewal, Replication, Expansion, Revocation, and Closure Decision Making. The sponsor implements a transparent and rigorous process that uses comprehensive academic, financial, and organizational performance data to make decisions about renewal, replication, expansion, revocation, and closure. The sponsor shall—

(A) Base the renewal process and renewal decisions on thorough analyses of a comprehensive body of objective evidence defined by the charter contract consistent with section 160.405.9(2)-(3), RSMo;

(B) Provide each charter school, in advance of the renewal decision, a cumulative performance report that summarizes the charter school's performance record over the charter term in accordance with the performance expectations set forth in the charter contract, and states the sponsor's summative findings concerning charter school performance and its prospects for renewal;

(C) Grant renewal to charter schools that have achieved the performance expectations and corresponding targets stated in the charter contract, are organizationally and fiscally viable, and have been diligent to the terms of the contract and applicable law, consistent with sections 160.400.11(5) and 160.405.9(2)-(3), RSMo;

(D) To the extent the charter school qualifies for an expedited renewal process, as defined by section 160.405.9(2)(d), the sponsor shall implement a streamlined renewal process, which decreases the burden on the charter school (i.e., fewer application requirements, a more targeted document request, or a shorter renewal site visit) and the amount of time between submission of the renewal application and the sponsor's decision;

(E) Promptly notify in writing each charter school of the sponsor's renewal or non-renewal decision, including explanation of the reasons for the decision;

(F) In accordance with section 160.408, RSMo, provide "high-quality charter schools," as defined by section 160.408, RSMo, with opportunities for expedited replication and expansion;

(G) Base decisions to approve additional charter school sites or to expand grade levels on thorough analyses of a comprehensive body of objective evidence defined by the charter contract;

(H) Revoke a charter during the charter term if there is clear evidence of underperformance or violation of law or the public trust that imperils students or public funds as outlined in section 160.405.8, RSMo;

(I) In the event of a revocation, provide charter schools written notice at least sixty (60) days prior to revoking the charter, as

outlined in section 160.405.8(3), RSMo, and establish clear procedures to conduct an administrative hearing regarding the potential charter revocation, as outlined in section 160.405.8(4), RSMo; and

(J) Maintain and implement a clear charter school closure process, including, but not limited to, clear procedures to ensure orderly transition of student records, archival of business operation, transfer of personnel records, submission of financial reports, resolution of financial obligations, disposition of charter school assets, and a notification plan to inform parents or guardians, among other stakeholders, of the closure action within thirty (30) days of the decision to close, as outlined in section 160.405.1(15), RSMo.

AUTHORITY: sections 160.400–160.425 and 161.092, RSMo 2016. Original rule filed Dec. 3, 2012, effective June 30, 2013 Amended: Filed Dec. 8, 2016, effective July 30, 2017. Amended: Filed Nov. 29, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: John Robertson, Coordinator, Educational Support Services, PO Box 480, Jefferson City, MO 65102-0480 or by email at webreplyimprcharter@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 20—Division of Learning Services [Chapter 600—Office of Early and Extended Learning] Chapter 100—Office of Quality Schools

PROPOSED AMENDMENT

5 CSR 20-[600.110]100.330 General Provisions Governing Programs Authorized Under the Early Childhood Development Act. The State Board of Education is proposing to amend subsection (1)(A), delete subsection (1)(B) and is transferring this rule from the Division of Learning Services, Office of Early and Extended Learning to Division of Learning Services, Office of Quality Schools.

PURPOSE: This amendment is to enumerate standards for which Parents as Teachers programs will be evaluated for approval.

(1) All programs and projects carried out by school districts under the Early Childhood Development Act (ECDA) shall be conducted in conformity with—

(A) The school district's annual application for district program approval under the ECDA, pursuant to applicable state laws and regulations[;] and the following:

1. The school district must designate a supervisor who will be responsible for the oversight and delivery of the Parents as Teachers (PAT) program;

2. The school district must establish a Community Advisory Committee;

3. The school district must use parent educators that meet

the minimum requirements established by the Department of Elementary and Secondary Education (department) and renew curriculum subscription(s) annually through Parents as Teachers National Center;

4. The school district must provide a PAT program that promotes early learning, knowledge and understanding of child development, partnerships between families and schools, and access to community resources for a minimum of nine (9) months during the program year;

5. The PAT program must be implemented to provide family personal visits using the department approved curriculum, developmental screenings for age eligible children using a department approved screening instrument, group connections, and access to a resource network;

6. The school district must annually gather and summarize feedback from families regarding the services received and use the results for program improvement;

7. The school district must maintain documentation to verify services that maintains confidentiality of participating families; and

8. The school district must collect and report all data requested by the department.

[(B) The state Early Childhood Development Act Administrative Manual, revised August 2015, which is incorporated by reference and made a part of this rule as published by the Department of Elementary and Secondary Education (department) and is available at the Early Learning Section, 205 Jefferson Street, PO Box 480, Jefferson City, MO 65102-0480 or on the department's website. This rule does not incorporate any subsequent amendments or additions. The Early Childhood Development Act Administrative Manual interprets state statutory requirements for the programs and establishes program management procedures consistent with state law and practice.]

AUTHORITY: sections 161.092, and 178.691–178.699, [RSMo 2000 and Supp. 2013, and section 161.092,] RSMo [Supp. 2014] 2016. This rule previously filed as 5 CSR 50-270.010. Original rule filed April 4, 1985, effective Sept. 3, 1985. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 29, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Jo Anne Ralston, Coordinator, Early Learning, PO Box 480, Jefferson City, MO 65102-0480 or by email at eel@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.*

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 30—Division of Financial and Administrative Services

Chapter 261—[School] Pupil Transportation

PROPOSED AMENDMENT

5 CSR 30-261.010 Requirements for the Operation of School Buses. The State Board of Education (board) is proposing to amend

sections (1)–(3).

PURPOSE: The amendment is to update the Requirements for the Operation of School Buses to align with section 162.064, RSMo Supp 2018.

(1) General Requirements for Approval of School Bus Transportation.

(D) There shall be on file in the appropriate school district office copies of current contracts, bonds, driver's physical examination certificates, *[school bus permits]* **driver's license with applicable endorsements**, and maps of school bus routes. Public school district boards of education shall require operators of school buses to conduct and prepare a record of the daily pretrip inspection for each school bus.

(2) School Bus Driver Qualifications.

(A) All school bus drivers shall be duly licensed in accordance with Missouri statutes and public school district board policy~~/.~~ and—

1. Be in good physical and mental health;
2. Undergo a **biennial** physical examination *[annually no more than ninety (90) days before the beginning of the school year]* by a medical examiner who is licensed, certified, and/or registered, in accordance with applicable Missouri laws and regulations, to perform physical examinations to determine whether they meet the requirements of section 302.272, RSMo, and present a signed physical examination certificate that they, in the medical examiner's judgment, meet or exceed those requirements to the employer. The term medical examiner includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic. **For new drivers, such statement shall be on file prior to the driver's initial operation of a school bus.** A school bus driver whose ability to safely operate a school bus has been impaired by a physical or mental injury or disease, as determined by the public school district board of education, must submit a release by the attending physician prior to resuming school bus operation; and
3. Undergo testing for drug and alcohol use/abuse, in compliance with laws.

(3) Driver Operation.

(A) A school bus driver shall:

1. Observe carefully all signs, signals, and rules of the road as provided by the Missouri Motor Vehicle Laws;
2. Follow these loading and unloading procedures:
 - A. If school bus is equipped with a master switch, make sure the master switch is in the "on" position;
 - B. Activate prewarning amber flashing lights at least five hundred feet (500') before a designated stop;
 - C. When stopping for a designated stop, apply brakes hard enough to light up the brake lights so that vehicles behind the school bus will know it is slowing down;
 - D. Pull as far to the right as practicable on the traveled portion of the roadway and at a location so that the school bus is visible for at least three hundred feet (300') in both directions or five hundred feet (500') if the speed limit is greater than sixty (60) miles per hour. Check all mirrors to see that traffic is clear and it is safe to stop;
 - E. Approach waiting students with extreme care, paying attention to the surface on which the school bus will stop (dry, slippery, slopes right, rough ground, and the like). Bring the school bus to a complete stop so that the closest part of the school bus is not less than six feet (6') and not more than ten feet (10') from the closest student;
 - F. Place the transmission in neutral and set the parking brake as needed;
 - G. Deactivate the prewarning amber flashing lights and activate the red flashing warning lights and the stop arm when opening

the service door after stopping;

H. Check traffic in front and rear of the school bus before you give the students a hand signal that it is okay to cross the road. Drivers should train students not to approach the school bus until given a signal and to check traffic before crossing the roadway;

I. Require students who must cross the roadway after leaving the bus or before boarding the bus to cross a minimum of ten feet (10') in front of the bus and only upon a signal given by the driver, monitor, or bus patrol when organized bus patrols are used; and

J. Have students go directly to their seats. When students are seated, check traffic and close the front door to deactivate the red flashing warning lights and stop arm;

3. Perform and prepare written documentation of the daily pretrip inspection which is to be submitted to the transportation administrator. Pretrip inspection of vehicle shall include brakes, steering components, lights, signaling devices, emergency door, tires, and safety equipment, as a minimum. Any defects or deficiencies that may affect the safety of vehicle operation or result in mechanical breakdown shall be reported immediately in writing and driver shall not operate school bus until the defect or deficiency has been corrected;

4. Activate the prewarning amber flashing lights if a school bus stop must be made in close proximity to the crest of a hill or on curves with limited sight distance, approximately one hundred feet (100') before passing the crest so that vehicles following to the rear shall be made aware the bus is preparing to stop for the purpose of loading or unloading pupils;

5. Assume control of all children while they are being transported requiring respectable and orderly behavior from them. Particular attention should be given to the care and protection of the younger pupils. Any continued disorderly conduct should be reported to the proper school authorities;

6. Not back school bus on school grounds unless rear is guarded by school patrol or adult and driver is advised that the way is clear. Backing the bus at any time shall be avoided if at all possible;

7. Follow these procedures when a school bus is disabled:

- A. Stop the bus as far to the right as possible (on the shoulder, if available);
- B. Secure the bus, activate hazard/warning lights, and set parking brake;
- C. Keep children in bus. If location of the bus is unsafe, remove the children to a safer location;
- D. Place triangular reflectors a minimum of one hundred feet (100') in both the front and rear of the bus;
- E. Telephone, radio, or send capable student to call authorities, giving bus location and description of breakdown; and
- F. See that all pupils are delivered to their destinations;
8. Keep inside of vehicle clean and comfortable at all times;
9. Keep lettering and lights on front and rear of bus clean so that all markings are clearly visible;
10. Keep service door closed at all times when bus is in motion;
11. Not leave a loaded bus while motor is running;
12. Fill the fuel tank only when there are no children in the bus;
13. Not allow animals on the school bus except for seeing eye dogs or other specially trained animals necessary to furnish~~ing/~~ special education services for *[handicapped children]* **students with disabilities** to comply with applicable state law and regulations;
14. Not allow weapons or explosive material on the school bus;
15. Not allow items on the school bus to protrude into or block the aisle or be left in the driver or emergency exit areas;
16. Make and promptly file all daily, weekly, and monthly reports which may be required;
17. Use seat belt whenever the bus is in motion;
18. Not drive any school bus for more than:
 - A. Eight (8) consecutive hours. Hours will be consecutive unless the individual ceases operation of the vehicle for at least sixty (60) minutes; or
 - B. An aggregate of twelve (12) hours in a twenty-four- (24-)/-

hour period;

19. Illuminate headlights whenever students are being transported;

20. Not use tobacco products at any time in the school bus; and

21. Not operate a school bus while under the influence of intoxicants, narcotics, or drugs.

AUTHORITY: sections 161.092, [RSMo Supp. 2003.] and 163.161, RSMo 2016 and sections 304.060 and 162.064, RSMo [2000] Supp 2018. This rule was previously filed as 5 CSR 40-261.010. Original rule filed June 15, 1951, effective July 1, 1951. For intervening history, please consult the Code of State Regulations. Amended: Filed Nov. 29, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, ATTN: Student Transportation Manager, Division of Financial and Administrative Services, PO Box 480, Jefferson City, MO 65102-0480. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Division 30—Division of Labor Standards

Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.010 [Prevailing] Applicable Wage Rates for Public Works Projects. The division proposes to amend sections (1), (2), (4), and (5); renumber a portion of section (4) as section (5) and amend the section; and renumber the remaining sections.

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB1729 (2018).

PURPOSE: This rule sets forth [prevailing] applicable wage requirements relative to work performed by workers on public funded projects.

(1) All public bodies of Missouri contemplating construction work must obtain from the department an annual wage order which sets forth the [prevailing] applicable hourly rate of wages (the prevailing wage or the public works contracting minimum wage as provided in section 290.257, RSMo) in the locality. The rates so determined shall be incorporated in the contract specifications and made a part of those specifications, except that construction contracts of the State Highway and Transportation Commission need not list specific wage rates to apply, but may refer to the wage rates contained in the appropriate General Wage Orders issued by the department, as applicable.

(2) Request for annual wage orders shall be initiated at least ten (10) calendar days before advertisement of the specifications for the contract for which the determination is sought. An exception from this provision will be made by the department only upon a proper show-

ing of extenuating circumstances. The department has prepared and printed Form No. PW-3 for use in making a request. The form may be secured by writing Division of Labor Standards, PO Box 449, Jefferson City, MO 65102 or by visiting the following website: https://labor.mo.gov/sites/labor/files/pubs_forms/PW-3-AI.pdf.

(4) The annual wage order issued by the department contains the current applicable wage rates [prevailing] in the locality at the time the annual wage order is issued. Hours worked during the calendar year are used to set the prevailing wage rates in the annual wage order issued in March of the following year. The department will consider hours submitted for use in its initial determination of the prevailing wage rates to be included in a particular year's wage order only if those hours are received [by it] from a contractor, by either paper submission on a form provided by the department or in electronic format, no later than January 31 of that year. Handwritten submissions will not be accepted. For purposes of submitting reportable hours, the term "contractor" shall include a "subcontractor." The department will not include the following hours in the calculation of the annual wage order:

(A) Hours not readily identifiable as being submitted by a contractor;

(B) Hours submitted for construction of public works for which either the engineer's estimate or the bid accepted by the public body for the total project cost is in the amount of seventy-five thousand dollars (\$75,000) or less;

(C) Hours worked by federally-registered apprentices or entry-level workers;

(D) Hours worked on residential construction projects.

(5) Section 290.262.[9/8, RSMo, provides that the annual wage order for a particular occupational title may be altered once each year with an incremental increase. A public body shall specify in the call for bids for each contract the [prevailing] applicable hourly rate of wages in the locality for each type of worker as set forth in the annual wage order or any replacement page(s) identifying the annual incremental increase issued by the department for the prevailing hourly rate of wages. The wage rates attached to, and made a part of, the call for bids for a contract shall remain in effect for the duration of that particular contract.

[[5]](6) It should be understood by all interested parties that the certified [prevailing] applicable wage rates determined by the department are minimum wage rates. The contractor may not pay less than the [prevailing] applicable wage rates determined by the department for the project or contract awarded to him/her as set forth in the proposal on which s/he submitted his/her bid. Employees are free to bargain for a higher rate of pay and employers are free to pay a higher rate of pay.

[[6]](7) Each month the successful bid contractors shall submit certified copies of their current payrolls to the contracting public body. The public body, upon receipt of the payrolls on a project, shall keep the payrolls on file for a period of one (1) year from the date of submission of the final payrolls by the contractor. The payroll records shall set out accurately and completely the following: name and address of each worker, the class or type of worker, rate of pay, daily and weekly number of hours worked for each class or type of work performed, deduction made, and actual wages paid for each class or type of work performed by each worker. The payroll records shall be available at all times for inspection by authorized representatives of the Department of Labor and Industrial Relations.

[[7]](8) The public body shall make examinations of the payrolls and other records of each contractor or subcontractor as may be necessary to assure compliance with the provisions of the law. In connection with those examinations, particular attention should be given to the correctness of classifications and any disproportionate employment of any workers. The examinations shall be of a frequency that

may be necessary to assure conformity with the provisions of the law. An examination shall be made after the project has been substantially completed, but prior to the acceptance of the affidavit as required by section 290.290, RSMo. If any violation of sections 290.210–290.580, RSMo, is discovered by the inspecting public body, it is their duty under section 290.250, RSMo, to withhold and retain from payments to the contractor all sums and amounts due and owing as a result of any violation. Any violation shall be immediately reported to the Division of Labor Standards at PO Box 449, Jefferson City, MO 65102 or by telephone.

AUTHORITY: section 290.240.2, RSMo [2000] *Supp.* 2018. Original rule filed Dec. 18, 1975, effective Dec. 28, 1975. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. Amended: Filed Nov. 21, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 8—DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS Division 30—Division of Labor Standards Chapter 3—Prevailing Wage Law Rules

PROPOSED AMENDMENT

8 CSR 30-3.030 Apprentices and [Trainees] Entry-Level Workers. The division proposes to amend sections (1) and (2); rescind section (3); and renumber the remaining section.

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

PURPOSE: This rule sets forth the requirements for the payment of apprentice **and entry-level worker** wages for [workers] those employed on public works subject to the Prevailing Wage Law.

(1) Journeymen's rate of pay shall be paid to all workers employed on public works construction except **entry-level workers or apprentices [and trainees]** registered and participating in apprentice [or trainee] programs registered with the United States Department of Labor, [Bureau of Apprenticeship and Training] **Employment and Training Administration**; and apprentices [and trainees] registered and participating in [apprenticeship and skill training] programs certified by the Secretary of the United States Department of Transportation as promoting equal opportunity in connection with federal-aid highway construction programs. **Such workers shall be paid not less than fifty percent (50%) of the applicable wage rate for a journeyman worker under the appropriate occupational title for a specific locality. In calculating the applicable wage rate for a journeyman worker, fringe benefits shall be included.**

(2) [Apprentices shall be permitted to work at less than the predetermined rate for the class or type of work they per-

formed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The allowable ratio of apprenticeship to journeymen on the site of the construction for any class or type of workers shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on the payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this rule, shall be paid not less than the applicable wage rate on the wage determination for the class or type of work actually performed. In addition, those apprentices performing work on the site of the construction who are in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the class or type of work actually performed. Every apprentice shall be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate for the class or type of worker specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices shall be paid the full amount of fringe benefits listed on the wage determination for the applicable class or type of work performed. In the event the Bureau of Apprenticeship and Training withdraws approval of an apprenticeship program, the contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the class or type of work performed until an acceptable program is approved.] As set forth in section 290.235, RSMo, "on-the-job training workers" are defined as follows:

(A) "Federally-registered apprentices" – Workers participating in programs administered by the United States Department of Labor and subject to their specific requirements (See 29 U.S.C. section 50 and 29 C.F.R. 29) and workers participating in programs administered by the United States Department of Transportation and subject to their specific requirements. (See 23 U.S.C. section 113 and 23 C.F.R. 230); and

(B) "Entry-level workers" – Any worker who is not a journeyman and who is not otherwise enrolled in a federally-registered apprenticeship program.

[(3) Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the United States Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the annual wage order for the applicable class or type of work performed. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the annual wage order for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less

than the applicable wage rate on the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.]

[(4)](3) Workers employed on federal-aid highway construction projects may be paid at an apprentice or trainee rate of pay if enrolled in an apprenticeship or skill training program which has been certified by the Secretary of the United States Department of Transportation pursuant to 23 U.S.C. 113. In the event the Secretary of Transportation withdraws approval of a program, the contractor will no longer be permitted to pay workers less than the applicable predetermined rate for the work performed until an acceptable program is approved.

AUTHORITY: section 290.240, RSMo [1994] Supp. 2018. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. Amended: Filed Nov. 21, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules**

PROPOSED AMENDMENT

8 CSR 30-3.040 Classifications of Construction Work. The division proposes to amend section (1).

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

(1) All public works construction, for which the prevailing hourly rate of wages **or the public works contracting minimum wage** of workers are to be determined, shall be classified as either—

AUTHORITY: section 290.240, RSMo [1994] Supp. 2018. Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. Amended: Filed Nov. 21, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules**

PROPOSED AMENDMENT

8 CSR 30-3.050 Posting of Prevailing Wage Rates. The division proposes to amend section (1).

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

(1) Contractors and subcontractors engaged in public works projects shall post the *[prevailing]* **applicable** hourly rate of wages (**the prevailing wage or the public works contracting minimum wage as provided in section 290.257, RSMo**) in a dry, accessible place within the field office at the site of the building or construction job. On public works projects for which no field office is needed or established, such as road construction, sewer lines, pipelines and the like, a contractor/subcontractor may post the *[prevailing]* **applicable** hourly rates of wages at the contractor/subcontractor's local office or batch plant, so long as the contractor/subcontractor provides a copy of the prevailing hourly wage rates to any worker upon request. *[Prevailing]* **Applicable** hourly wage rates must be posted and maintained in a clearly legible condition for the duration of the public works project as provided by law.

AUTHORITY: section 290.240, RSMo [1986] Supp. 2018. Original rule filed Aug. 24, 1990, effective April 29, 1991. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. Amended: Filed Nov. 21, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 8—DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS
Division 30—Division of Labor Standards
Chapter 3—Prevailing Wage Law Rules**

PROPOSED AMENDMENT

8 CSR 30-3.060 Occupational Titles of Work Descriptions. The division proposes to rescind section (3) and renumber the remaining sections and amend sections (4), (7), and (8).

PURPOSE: This amendment implements statutory changes to the Missouri Prevailing Wage Law enacted by the passage of HB 1729 (2018).

[(3) Any person wishing to add, delete or modify an occupational title of work description shall submit to the director of the Division of Labor Standards a written request containing the proposed changes. Proposals shall contain the following information:

(A) Occupational title;

(B) A description of the physical duties to be performed by workers under the title;

(C) A copy of any current collective bargaining agreements that are relevant to the proposal, if any;

(D) Evidence of hours worked and wages paid while performing work under the title, including fringe benefits paid, if any;

(E) Identification of the county(ies) where the work was performed;

(F) Evidence that the proposed occupational title of work description is for a type or class of work that is commonly utilized by the construction industry on building or heavy and highway construction projects in Missouri; and

(G) Other information concerning the proposed addition, deletion or modification as the director of the Division of Labor Standards may deem advisable under the circumstances.]

[(4)](3) Interested parties who wish to submit wage information to be used in establishing the prevailing hourly rate of wages for a particular class or type of work are required to identify the work according to the applicable occupational title of work description set forth in this rule. Hours of work reported by a contractor or subcontractor to the department shall not be used to establish the prevailing hourly rate of wages if the party submitting the hours of work fails to identify the work under one of the recognized occupational titles [recognized by this rule].

[(5)](4) Any question as to the proper classification of work should be resolved before the work in question is commenced. Interested parties are encouraged to contact the Prevailing Wage Section of the Division of Labor Standards for an interpretation of these rules and for a determination of the appropriate occupational title of work description, relative to the class or type of work to be performed.

[(6)](5) The occupational titles and work descriptions for each type or class of work contained herein are valid throughout the entire state of Missouri. Through an objection to a wage order, an interested party may assert that any given description of work, as stated within this rule, does not apply to a specific occupational title(s) and that a different work description should apply to that occupational title(s). The interested party shall have the burden of proving by a preponderance of the evidence the inapplicability of the description of work within that particular occupational title, but shall be afforded the opportunity to do so in a hearing on an objection to the wage order before the Labor and Industrial Relations Commission.

[(7)](6) Occupational titles of work descriptions may be obtained from the department by written request to the director of the Division of Labor Standards, PO Box 449, Jefferson City, MO 65102 or by visiting the following website: <https://labor.mo.gov/DLS/PrevailingWage/pwContractors>.

[(8)](7) The occupational titles of work descriptions set forth here are as follows:

(A) Asbestos Worker/[Heat and Frost Insulator]—Applies to workers who apply insulation materials to mechanical systems to reduce loss or absorption of heat, prevent moisture condensation,

and to deaden sound and prevent vibration. The workers remove all insulation materials from mechanical systems unless the mechanical system is being scrapped. The work falling within this occupational title of work description includes:

1. The preparation, including the building of enclosures and hanging polyurethane, and physical distribution on the job site of asbestos, cork, plastic, magnesite or similar materials, or other materials used as a substitute, and used as thermal insulation. The manufacture, fabrication, assembling, molding, handling, erection, spraying, pouring, making, hanging, application, adjusting, alteration, repairing, dismantling, reconditioning, corrosion control, and testing of heat or frost insulation, such as asbestos, cork, mineral wall, infusorial earth, mercerized silk, flax, fiber, fire felt, asbestos paper, asbestos curtain, asbestos millboard, fibrous glass, foam glass, styrofoam, polyurethane, polystyrene, metals, plastics, fibrous matter, roving, and resins, and the erection of scaffolding up to fourteen feet (14'), working platform;

2. The covering, including encapsulation, of boilers, tanks, refrigeration units, evaporators, turbines, fittings, valves, ducts, flues, vats, equipment, hot and cold pipes, or any other hot or cold surfaces with the insulation materials listed in this rule, used for the purpose of thermal insulation, fire stoppage, fireproofing, radiator protection, sound deadeners, and the lagging (covering) on piping; and

3. The removal of all insulation materials from mechanical systems, unless the mechanical system is being scrapped, whether they contain asbestos or not (pipes, boilers, ducts, flues, breechings). All cleanup required in connection with this work, shall include the sealing, labeling, and dropping of scrap material into the appropriate containers. (After drop, final disposal is considered to be the class or type of work falling within the occupational title of work description for second semiskilled laborer.);

(B) Boilermaker—Applies to workers who assemble, erect, and repair boilers, tanks, vats, and pressure vessels according to blueprint specifications, using handtools, portable power tools, and equipment. The work falling within this occupational title of work description includes:

1. Locating and marking of reference points for columns on plates or foundations, using master straightedge, squares, transit, and measuring tape;

2. Using rigging or cranes to lift parts to specified positions;

3. Aligning structures or plate sections, using plumb bobs, levels, wedges, dogs, or turnbuckles;

4. Drilling, reaming, chipping, caulking, and grinding of structures and sections and bolting or welding them together;

5. Setting of drums and headers and installation of tubes;

6. Cleaning up as necessary in connection with this work; and

7. Riveting, acetylene burning, rigging, fitting-up, impact machine operating, unloading and handling of material and equipment where power equipment and rigging are required;

(C) Bricklayers [and Stone Mason]—Applies to workers who prepare, lay, set, bed, point, patch, grout, caulk, cut, fit, plumb, align, level, anchor, bolt, or weld brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. Also, the workers install expansion joint materials in brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. The work falling within this occupational title of work description includes:

1. The unloading of brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry where power equipment and rigging are required;

2. The masonry paving and rip-rapping of all types, with or without mortar;

3. The reinforcing of masonry, including placing, tying, and setting of rods;

4. The application of insulation systems and materials, and air and/or vapor barrier systems and materials, by spray, trowel, roller, adhesive, or mechanically fastened in or to all masonry walls;

5. The caulking of abutting masonry openings in masonry walls, expansion joints, and false joints in all types of masonry;

6. The waterproofing of all types of masonry, which shall include installation and application of air and/or vapor barrier systems and materials by spray, trowel, roller, adhesive, or mechanically fastened; and

7. The cleaning, tuckpointing, sandblasting, steam cleaning, and Guniting work on all types of masonry;

(D) **Carpenter (which shall include pile driver, millwright, lather, and linoleum layer)**—Applies to workers who construct, erect, install, and repair structures, structural members and fixtures made of wood, plywood, wallboard, and materials that take the place of wood, such as plastic, metals, composites, fiberglass, and Transit sheeting and Cemesto Board, using carpenter hand tools and power tools. The work falling within this occupational title of work description includes:

1. General Carpenter.

[1./A. The layout of buildings or structures on the site or plot. The installation of aluminum expansion joints for buildings and bridge structure as well as concrete strike-off machines/;].

[2./B. The making and setting of all concrete forms (except curb forms on heavy construction), including establishment of building lines or flow lines (box culverts, bridges) including footing forms. The making of all forms used in tilt-up construction. The layout, installation, and construction for wall forms and footing forms, all block-outs, wood or steel, layout, and installation of all embedded items/;].

[3./C. The building and handling of scaffolds used by carpenters to work from. All scaffolding, constructed or assembled, fourteen feet six inches (14'6") and higher for normal or specialty use—regardless of purpose/;].

[4./D. The building of rough wooden structures, such as concrete forms, scaffolds, wooden bridges, trestles, coffer dams, tunnel and sewer support/;], welding and burning/;].

[5./E. The selection of specified type of lumber or other materials. Prepare layout, using rule, framing square, and calipers. Mark cutting and assembling lines on materials, using pencil, chalk, and marking gauge. Shape materials to prescribed measurements, using saws, chisels, and planes. Assemble, cut, and shape materials and fasten them together with nails, dowel pins, or glue. Erect framework for structures. Verify trueness of structure with plumb bob and carpenter's level. Apply decorative paneling to walls/;].

[6./F. The installation of ladders, handrails, walkways, platforms, and gangways made of wood as well as shoring and lagging. Install doors and wood and metal windows and bucks, including hardware (bucks are rough frames in which finished frames are inserted) in building framework and brace them with boards nailed to framework. Install pallet racks and metal shelving. Install subflooring in buildings. Install insulation such as batt, board, saffing, thermal, styrofoam, sound attenuation, fiberglass when the installation of the insulation material is not being applied as an integral part of the roofing system. Nail plaster grounds (wood or metal strips) to studding. Fit and nail sheathing on outer walls and roofs on buildings. Install beams and trusses of wood laminate/;].

[7./G. The making, handling, and setting of all frames, sash, blinds, trim, and other fixtures (for example, cabinets, bookcases, and benches), when made of wood or any wood substitute. The handling and assembly of chairs, seats, bleachers, and benches and other furniture in theaters, halls, schools, and other places of assemblage on floors of any kind. Install protection screens, chalk boards, toilet partitions (plastic laminate, solid plastic). Caulking of fixtures and countertops including Corian tub and shower enclosures/;].

[8./H. The installation of wood and metal studs and exterior panels/;].

[9./I. The handling, cutting, sawing, fitting of drywall (sheetrock), and lead-lined drywall whether for walls, ceilings, floors, soffits, or any use, no matter how installed—nailed, screwed, glued, or otherwise (interior, exterior). Lead-lined drywall is used in X rays to avoid radiation exposure. Install corner guards and wooden

and plastic column covers/;].

[10./J. The handling and installation of acoustical and egg crate ceiling systems in its entirety (hanger wire, grid, molding, tile) whether vertically or horizontally installed/;].

[11./K. The installation of all builders hardware, including door tracks of every description. The installation of all weather strips. The making, fitting, and hanging of fly screens for doors, windows, and other openings/;].

[12./L. Installation of wood and hollow metal doors, rollup garage doors, overhead doors or rolling fire doors, automatic doors, channel iron door bucks, glass sliding, and bi-fold doors/; and/.

[13./M. The installation of access flooring, computer floors, and raised or elevated floors. Install modular headwall units and laboratory casework and fume hoods;

2. Pile Driver—The work falling within the occupational title of work description for pile driver includes:

A. The handling, layout, driving, cutting, and splicing of wood, metal, or concrete piling regardless of purpose (for example, sheets, I-beams, pile caps, and welding to piling);

B. The assembly, disassembly, and rigging of the pile driving equipment; and

C. The conduct of underwater diving that is incidental to pile driving work;

3. Millwright—Applies to workers who design, build, or repair mills or mill machinery; hoist, dismantle, erect, assemble, line, and adjust all machines used in the transmission of power in buildings, factories or elsewhere; unload machines used in the transmission of power in buildings, factories, or elsewhere, where power equipment and rigging are required. The work falling within this occupational title of work description includes: the setting of all classes of engines, direct drive motors, dynamos, turbines, generators, and air compressors and pumps. The assembling, setting, and packing of all compressors and pumps. The placing of all pulleys, sheaves, and fly wheels on the listed equipment. The making and setting of all templates and bolts for all machinery requiring same. Drypacking for sole plates. Installation of truck and railroad scales. Installation of trash compactors. Installation of all types of conveyors. The cutting and threading of all bolts. The handling and operating of all acetylene and devices for heating, welding, and cutting when used in connection with millwright work;

4. Lather—Applies to workers who erect horizontal metal framework to which laths are fastened, using nails, bolts, stud-gun, or a combination of these, drills holes in floor and ceiling, and drives ends of wooden or metal studs into holes to provide anchor for furring or rockboard laths. The occupational title of lather applies to workers who nail, clip, or fasten, all types of wood, wire, and metal laths, plasterboard, wallboard, rockboard, gypsum, sheetrock, and acoustical materials which take the place of same to walls, ceilings, and partitions of buildings to provide supporting base for plaster, fireproofing, or acoustical material. The occupational title of work description for lather applies to workers who erect all metal plastering accessories which are covered or serve as ground, or both, guard, stock, or screed for plaster materials, including wire mesh. The work falling within the occupational title of work description includes:

A. The installing of carrying bars and purlins (pieces of horizontal timber), light iron, and metal furring (thin strips of wood or metal to create air space) of all descriptions, such as rods, channels, flat iron, T-bar, H-bar, and other ceiling bars or systems for the receipt of lath and board;

B. The wiring of plaster channels to overhead structural framework to provide support for plaster or acoustical ceiling tile; and

C. The nailing of plaster grounds (wood or metal strips) to studding to provide a guide for those workers performing work falling within the occupational title of work description for plasterer;

5. Linoleum Layer—Applies to workers who measure, cut,

sew, make-up and seam, tape, fit, lay, and install and seal and wax materials to be cemented, tacked, or otherwise applied to its base, wherever it may be. These materials may be used as shock-absorbing, sound-absorbing, or decorative coverings. With the exception of terrazzo, magnesite, and latex built-up floors, the materials include oil cloth, matting, linen, carpet, synthetic turf, linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastipave, tile, wood tile, interlocking and magnetic tile, chalk and bulletin board, nonslip or abrasive materials, resilient, decorative seamless surface coatings, monolithic coverings (monolithic shall mean all resilient seamless material such as epoxy, polyethylene, plastics and their derivatives, components and systems), and all other resilient coverings on floors, walls, counters, table tops, and ceilings. The work falling within the occupational title of work description includes:

- A. The handling of materials at the point of installation;
- B. The performing of all necessary preparation and finish work, such as sweeping, scraping, sanding, or chipping dirt and irregularities from base surfaces and filling cracks with putty, plaster, or cement grout to form smooth, clean foundations, drilling holes for sockets and pins;
- C. The installing of underlayment, sanding and filling, fitting of metal edgings, metal corners, and caps and fitting devices for attachment of these materials;
- D. The spreading of adhesive cement over floor to cement foundation material to the floor;
- E. The laying of covering on cement; and
- F. The rolling of finished floor to smooth it out and press cement into base and covering;

(E) Cement Mason (which shall include plasterer)—*[Applies to workers who perform work on concrete where finishing tools are used.]* The work falling within this occupational title of work description includes:

- 1. Cement Mason - Applies to workers who perform work on concrete where finishing tools are used.

[1./A. The setting of screeds, the rodding (buildings), shaping, smoothing, and finishing of the surfaces of freshly poured concrete floors, walls, sidewalks, curbs, steps, and stairways, the finishing of extruded barrier rails or any other concrete surface requiring finishing, using hand tools or power tools, including floats, trowels, screeds, and straightedge/;].

[2./B. The removing of rough or defective spots from concrete surfaces, using grinder or chisel and hammer and patching holes with fresh concrete or epoxy compound preparatory to sacking/;].

[3./C. The molding of expansion joints and edges, using edging tools, jointers, and straightedge/;].

[4./D. The application of penetrating sealer and primer protective coatings to concrete floors and steps when part of the finishing process/;].

[5./E. The installation of seamless composition floors and the installation and finishing of epoxy-based coatings or polyester-based linings to all surfaces, when the coatings or linings are applied by spraying or troweling/;].

[6./F. The sandblasting or water blasting for architectural finish or preparatory to patching/;].

[7./G. The cutting of joints with concrete saw for the control of cracks in buildings and sidewalks, driveways, and curbs and gutters contiguous to buildings/; and/].

[8./H. The setting of concrete curb, gutter, and sidewalk forms one (1) board high up to twelve inches (12");

- 2. Plasterer - Applies to workers who apply gypsum, Portland cement, stucco, imitation stone, and kindred materials and products to interior walls, ceilings, and partitions and to exterior walls of buildings, and finish those materials and products.

A. The spreading of plaster over laths, masonry, or any other base, using trowel, and smoothing the plaster with darby

and float for uniform thickness;

B. The application of the various manufacturers' brand names of thin coat or plaster veneer;

C. The application of all bonding agents and mastic;

D. The roughing of undercoat with wire or metal scraper to provide bond for succeeding coat of plaster;

E. The application of all malleable plastic materials and epoxy materials;

F. The setting in place of plasterboard, insulation board, styrofoam and bead-board, ground, locks, patent dots, cork plates, brownstone and acoustical tile, fiberglass reinforcement and finished products;

G. The plastering of joints, nail holes, and bruises on wallboard;

H. The grouting and filling of door bucks, runners, and similar installations, in conjunction with plastering operations;

I. The application of scratchcoat, browncoat, and finish coat of plaster to wood, metal or board laths successively to all ceilings and walls when finished with terrazzo or tile, and the application of any plastic material to same;

J. The fireproofing of all building assemblies with plaster materials, sprayed fiberglass or similar materials, whether applied to gypsum, metal lath, or directly;

K. The application of crushed stone, marble, or ceramic chips and broken glass where embedded in plaster, or similar materials;

L. The placing of acoustic blocks with any plastic material, regardless of thickness;

M. The placing, by any method, of plaster or composition caps and ornaments;

N. The creating of decorative textures in finish coat by marking surface of coat with brush and trowel or by spattering it with small stones (stucco) where plastering equipment or materials, or both, are used; and

O. The operation and control of all types of plastering machines, including power trowels and floats;

(F) Communications [(Electronic/Telecommunication)] Technician—Applies to workers who install, inspect, repair, and service electronic and telecommunication systems. The work falling within the occupational title of Communication (Electronic/Telecommunication) Technician includes:

1. Installing, repairing, and servicing of radio, television, and recording systems and devices; systems for paging, intercommunication, public address, wired music, clocks, security and surveillance systems, and mobile radio systems; fire alarm and burglar alarm systems;

2. Wiring of low-voltage surface wiring and wiring in nonmetallic conduits and incidental shielded metallic conduit runs of no longer than ten feet (10') nor larger than one inch (1") when required in conjunction with the work listed in this rule;

3. Installing, repairing, servicing, or a combination of these, of the Main Distribution Frame (MDF) where the permanent outside lines entering a building terminate and where the subscriber's line multiple cabling and trunk multiple cabling originate. It is usually located on the ground floor of a building;

4. Installing, repairing, servicing, or a combination of these, of the Intermediate Distribution Frames (IDF), which provides flexibility in allocating the subscriber's number to the line unit or equipment in the office that is to be associated with the particular line. These frames are located on each floor of a building;

5. Installing, repairing, servicing, or a combination of these, of the subpanels (blocks). The subpanels are connecting devices where large feed cables terminate at the distribution frames;

6. Installing, repairing common equipment or key service unit, or a combination of these. This equipment consists of a backboard assembly and an equipment mounting frame, which are utilized for connecting external telephones;

7. Installing, repairing, servicing of the instruments, terminals,

and sets, or a combination of these. This equipment is at either end of a circuit, or at a subscriber's or user's terminal;

8. Installing, repairing, servicing, or a combination of these, of the ancillary or add-on equipment such as bells, buzzers, speaker-phones, headsets, automatic dialers, recorders; and

9. Installing, repairing, servicing of the telephone cable, or a combination of these. Telephone cable includes: network channel service cable; riser cables between floors of a building; distribution cables installed on each floor of a building in the floor or the ceiling, and inside wires between the telephone and the connection to the distribution cable;

(G) Electrician—*[Encompasses two (2) subclassifications as follows, Inside Wireman and Outside-Line Construction/Lineman:*

1. *Inside wireman*—*[Applies to workers who are responsible for installation, assembly, construction, inspection, operation, and repair of all electrical work within the property lines of any given property (manufacturing plants, commercial buildings, schools, hospitals, power plants, parking lots). This scope of work shall begin at the secondary site of the transformer when the transformer is furnished by the local utility and the service conductors are installed underground. When service conductors are installed overhead in open air from wooden poles, this scope of work shall start immediately after the first point of attachment to the buildings or structures. The work falling within this occupational title of work description includes:*

[A./1. Planning and layout of electrical systems that provide power and lighting in all structures. This includes cathodic protection systems utilized to protect structural steel in buildings and parking structures;

[B./2. All handling, moving, loading, and unloading of any electrical materials, materials used in association with an electrical system, electrical equipment, and electrical apparatus on the job site, whether by hand or where power equipment and rigging are required;

[C./3. Welding, burning, brazing, bending, drilling, and shaping of all copper, silver, aluminum, angle iron, and brackets to be used in connection with the installation and erection of electrical wiring and equipment;

[D./4. Measuring, cutting, bending, threading, forming, assembling, and installing of all electrical raceways (conduit, wireways, cable trays), using tools, such as hacksaw, pipe threader, power saw, and conduit bender;

[E./5. Installing wire in raceways (conduit, wireways, troughs, cable trays). This wire may be service conductors, feeder wiring, subfeeder wiring, branch circuit wiring;

[F./6. Chasing and channeling necessary to complete any electrical work, including the fabrication and installation of duct banks and manholes incidental to electrical, electronic, data, fiber optic, and telecommunication installation;

[G./7. Splicing wires by stripping insulation from terminal leads with knife or pliers, twisting or soldering wires together, and applying tape or terminal caps;

[H./8. Installing and modifying of lighting fixtures. This includes athletic field lighting when installed on stadium structures or supports other than wooden poles, or both;

[I./9. Installing and modifying of all electrical/fiber optic equipment (AC-DC motors, variable frequency drives, transformers, reactors, capacitors, motor generators, emergency generators, UPS equipment, data processing systems, and annunciator systems where sound is not a part thereof);

*[J./10. Installing of raceway systems utilizing conduit, conduit bodies, junction boxes, and device boxes for switches and receptacles. This also may include wiring systems utilizing other methods and materials approved by the *National Electrical Code* (MC cable, AC cable, BX, or flexible metal tubing or electrical nonmetallic tubing);*

[K./11. Installing of main service equipment, distribution pan-

els, subpanels, branch circuit panels, motor starters, disconnect switches, and all other related items;

[L./12. Installing and wiring of instrumentation and control devices as they pertain to heating, ventilating, air conditioning (HVAC) temperature control and energy management systems, building automation systems, and electrically or fiber optic operated fire/smoke detection systems where other building functions or systems are controlled;

[M./13. Installing conduit or other raceway greater than ten feet (10') when used for the following: fire alarm systems, security systems, sound systems, closed circuit television systems or cable television systems, or any system requiring mechanical protection or metallic shielding (telephone systems);

[N./14. Testing continuity of circuit to insure electrical compatibility and safety of components. This includes installation, inspecting, and testing of all grounding systems including those systems designed for lighting protection; and

[O./15. Removing electrical systems, fixtures, conduit, wiring, equipment, equipment supports, or materials involved in the transmission and distribution of electricity within the parameters of the building property line if reuse of any of the existing electrical system is required. This may include the demolition and removal and disposal of the electrical system;

[2. Outside-line construction/lineman—Applies to workers who erect and repair transmission poles (whether built of wood, metal, or other material), fabricated metal transmission towers, outdoor substations, switch racks, or similar electrical structures, electric cables, and related auxiliary equipment for high-voltage transmission and distribution powerlines used to conduct energy between generating stations, substations, and consumers. The work (overhead and underground) falling within this occupational title of work description includes:

A. Construction, repair, or dismantling of all overhead and underground electrical installations. The handling and operation of all equipment used to transport men, tools, and materials to and from the job site. The framing, trenching, digging, and backfilling of vaults, holes and poles and anchors (by hand or mechanical equipment), guying, fastening to the stub-in on concrete footings or pads, assembling of the grillage, grounding of all structures, stringing overhead wire, installing underground wire, splicing, and installation of transformers;

B. Construction and repair of highway and street lighting and traffic signal systems, cathodic protection systems, and ball field lighting systems;

C. Lineman operator—Operates equipment used on the outside line portion of a project. The lineman operator assists linemen in the performance of their work but does not climb or work out of any type of aerial lift equipment. The lineman operator does not perform any work that requires the use of hand tools;

D. Groundman—Work performed on the ground to assist the journeymen outside-line construction/lineman on work not energized. Groundmen use jack hammers, air drills, shovels, picks, tamps, trenching equipment, and other such tools for excavating and/or compacting dirt or rock on the outside line portion of a project but do not use hand tools;

E. Lineman tree trimmer—Trimming and removal of trees, stumps, limbs, brush, and other related tasks in and around electrical systems by use of chain saws, pruners, pole saws, and hand saws only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Lineman tree trimmer work may be performed on the ground

and in the air; and

F. Groundman tree trimmer—Assists the lineman tree trimmer in the performance of their work using rakes, chain saws, chippers, and industrial mowers in and around electrical systems only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Groundman tree trimmer work is only performed on the ground; and

3. The occupational title of electrician may include in a particular wage determination the subclassifications of lineman operator, groundman, lineman tree trimmer, groundman tree trimmer, or any combination of these, pursuant to section (6). The description of work and corresponding wage rates shall be established pursuant to the proceedings set forth in section (6);]

(H) Elevator Constructor—Applies to workers who assemble and install electric and hydraulic freight and passenger elevators, escalators, dumbwaiters, and moving walks. The work falling within this occupational title of work description includes:

1. The handling, unloading, and hoisting of all equipment to be assembled or installed by workers performing work within this occupational title of work description, from the time that equipment arrives at, or near the building site;

2. The wrecking or dismantling of elevator plants, to include elevators, escalators, dumbwaiters, moving walks, and all other equipment to be reused and assembled or installed by workers performing work within this occupational title of work description;

3. The sinking, drilling, boring, digging cylinder wells, or backfilling for hydraulic lifts, hydraulic elevators, or screw lifts;

4. The layout, erecting and assembling of all elevator equipment (for example, electric, hydraulic, steam, belt, compressed air, and hand-powered elevators; dumbwaiters, residence elevators, parking garage elevators); and the assembly of all escalators, moving walks and link belt carriers;

5. The erecting and assembly of all theater stage and curtain equipment and guides and rigging to them, organ consoles, and orchestra elevators;

6. The installing of all wiring, conduit, and raceways from the first point of attachment of main feeder terminals on the controller to other apparatus and operating circuits;

7. The operating of temporary cars; and

8. The installing of all elevator enclosures, fronts, fascias, sills, frames, and bucks;

(I) Glazier—Applies to workers who select, cut, prepare, handle, install, or remove all window glass, plate, and all other types of glass, including structural glass, mirror glass, tempered and laminated glass, safety or protection glass, all types of insulating glass units, all plastics or other similar materials when used in place of glass and when set or glazed with putty, moulding rubber, cement, lead, and all types of mastic, or other materials used in place of same. The workers performing work within this occupational title of work description install these materials in windows, louvers, doors, partitions, skylights, and on building fronts, walls, ceilings and tables, whether the materials are set in wood, stone, cement, or metal of all types. The work falling within the occupational title of work description includes:

1. The installing of mirrors of all types;

2. The marking of an outline or pattern on glass and cut glass with a glasscutter;

3. The breaking off of excess glass by hand or with a notched tool;

4. The fastening of glass panes into wood sash with glazier's points, and the spreading smooth of putty around the edge of panes with a knife to seal joints;

5. The installing of metal window and door frames into which glass panels are to be fitted or sliding windows. The bolting of metal hinges, handles, locks, and other hardware to prefabricated glass doors;

6. The installing of mirror or structural glass on building fronts, walls, ceilings or tables, using mastic, screws, or decorative moulding;

7. The installing of metal-framed glass enclosures for showers, bathtubs, and skylights; and

8. The installing, cutting, and removal of all window glass, plate, and all other types of glass, including structural glass, mirror glass, tempered and laminated glass, safety or protection glass, all types of insulating glass units, all plastics or other similar materials when used in place of glass and when set or glazed with putty, moulding rubber, cement, lead, and all types of mastic, or other materials used in place of same;

(J) Ironworker—Applies to workers who perform work in connection with field fabrication, erection, or both, installation, removal, wrecking, and dismantling of structural, architectural, and reinforcing iron and steel, ornamental lead, bronze, brass, copper, and aluminum, and plastics or other materials when used in place of them. The work falling within the occupational title of work description includes:

1. Structural. The unloading, erecting, bolting-up, plumbing-up, welding, and in-stalling of structural steel, including any field fabrication;

2. Reinforcing. The unloading, carrying, placing, and tying of all concrete reinforcing, such as re-bar, wire mesh, expanded metal or post tensioning cable (including the tension process) or prestress cables when installed on the job site;

3. Rigging. The unloading, moving, handling, placing, and setting of electrical machinery and equipment when rigging or power equipment, or both, is used (with the exception of setting of electric motors). The assembly and erection of radio and television and other structural steel towers (with the exception of electrical transmission towers). The unloading, handling, moving, and placing of machinery to be assembled or dismantled, erected, or installed to its approximate position (over the anchor bolts);

4. Windows. The installation of metal windows (with the exception of store fronts display windows), curtain walls, and metal panels. The caulking of metal-to-metal joints and metal-to-brick;

5. Doors. The erection of curtain type doors (overhead rolling-type doors), heavy industrial doors when made of metal, fire doors, and exterior metal hinged doors that carry a fire underwriters label are erected by iron workers;

6. Sheeting and decking. The installation of sheeting which is attached to metal framework including metal floor decking;

7. Metal buildings. The erection and installation of structural steel and sheet metal packaged buildings when they come in a package unit, such as Butler, Delta, Varco Prudent, or other name brand packaged buildings. The installation of all doors, windows, and insulation (when installed in conjunction with sheeting) in the packaged buildings. The installation of metal siding and metal roof decking, regardless of the fastening method or the object to which it is fastened;

8. Elevators. The installation of elevator doors for gates manually operated and all elevator enclosures, fronts, fascias, sills, frames, and bucks;

9. Precast. The unloading and installation/erection of precast bridge girders, single T's, double T's, top panels, and tilt-up slabs; and

10. Other. The installation of all catwalks, stairways, and hand rails made of aluminum, bronze, or any type of metal, glass or plastic. The installation of ornamental iron, such as revolving doors, gates, handrails, window grills, jail and cell work, and chain link fences. The installation of dry storage bins, hoppers, chutes, and conveyors where sand ore, coal, or any dry component is stored or transferred. The erection, installation, removal, wrecking, and dismantling of bridges, viaducts, cableways, tramway, monorail transportation systems. The

erection, installation, removal, wrecking, and dismantling of locks, gates, metal forms, railings (including pipe). The erection, installation, removal, wrecking, and dismantling of frames in support of boilers. The installation of metal siding and metal roof decking, regardless of the fastening method, or the object to which it is fastened. The handling, burning, welding, and tying of all materials used to reinforce concrete structures. The installation and erection of TV and microwave towers, self-supporting towers, or guy towers. The installation of metal guardrails with metal posts and highway signage;

(K) **General Laborer (including first semi-skilled laborer and second semi-skilled laborer)**—Consists of providing routine manual labor. This work encompasses several subclassifications, with the title and work description considered in light of whether the public works project pertains to building construction or heavy/highway construction.

1. Building construction. The subtitles falling within the occupational title of work description for laborer, as applicable to building construction, are as follows:

A. *[General]/Laborer*. The work falling within this subtitle of work description includes:

(I) Being included in one (I) of the following categories: flagmen, heaters, material plant man, carpenter tender, landscaper, signalman, wrecker (old/new structures), form handler, or posthole digger;

(II) Cleaning and clearing of all debris for all crafts, loading and unloading, conveying, distributing, construction material by hand and collecting and hoisting debris, backfilling, grading, and landscaping by hand;

(III) Covering of tanks, structures, and material piles with tarpaulins or other materials. Cleaning of masonry and other type walls and windows. Signaling and hoisting concrete buckets and for all other material handled by workers falling within the occupational title of work description for laborer;

(IV) Providing drinking water. Handling and cleaning of concrete chutes. Cleaning of concrete spills and chipping where hand tools are required. Performance of work necessary in remedying defects in concrete caused by leakage, bulging, sagging, or shifting of forms when finishing tools are not used. Jackhammer and paving breaker, air compressors, motor buggies, pumps (removal of water), except set-up men and nozzle men, chipping tool operator, concrete mixer operator (up to and including two- (2-)/-/ bag capacity); and

(V) Laying nonpressurized pipe for downspout drain lines, header lines, or laying of nonpressurized conduit, or a combination of these, for the carrying of storm water, waste, sewage, gravity flow lines, catch basins and manholes, effluent lines, originating outside the building and all those lines originating inside the building at the first Y, T, or connection outside the building;

B. First semiskill laborer. The work falling within this subtitle of work description includes: hod-carriers, plasterers, and cement mason tenders (who assist bricklayers, plasterers, and cement masons). The mixing, packing, wheeling, and tempering of mortar and fire clay. The mixing, handling and conveying of all other materials used by bricklayers, plasterers, and cement masons (for example, brick, tile, stone and cast stone), whether done by hand (or using a forklift (walk behind or similar types). Building of scaffolds, trestles, boxes, and swinging staging for bricklayers, plasterers, and cement masons; and

C. Second semiskill laborer. The work falling within this subtitle of work description includes: concrete pump set-up men and nozzle men, tile layers and bottom men, on sewers and drains, cutting torch, and burning bar (demolition), trench, or pier holes twelve feet (12') or over, wagon drill, air track or any mechanical drill, powder man, tamper, one hundred pounds (100 lbs.) or over, laborers working for mechanical and electric contractors (including but not limited to digging of all trenches, ditches, holes, paving of concrete, and cleaning of all trash), paving breaker, jackhammer and vibrator, laser beam man for sewer, grade checker for roads and railroads,

asbestos removal (except mechanical systems that are not being scrapped and any type of roofing where the roof is to be relaid), hazardous waste removal, disposal work, or any combination of these.

2. Heavy/highway construction. The subtitle falling within the occupational title of work description for **general** laborer, as applicable to heavy/highway construction, are as follows:

A. *[General]/Laborer*. The work falling within this subtitle of work description includes: carpenters tenders, salamander tenders, dump man, ticket takers, flagman, loading trucks under bins, hoppers and conveyors, track men, cement handler, dump man on earth fill, Georgia buggy man, material batch hopper man, spreader on asphalt machine, material mixer man (except on man holes), coffer dams, riprap pavers—rock, block, or brick, signal man for materials handled by laborers, scaffolds over ten feet (10') not self-supported from ground up, skipman on concrete paving, wire mesh setters on concrete paving, work in connection with nonpressurized pipelines, such as nonpressurized sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile, and duct lines and other nonpressurized pipelines; power tool operator; work performed by hand in connection with hydraulic or general dredging operations, form setters (curb and gutter), puddlers (paving only), straw blower nozzleman, asphalt plant platform man, chuck tender, crusher feeder, men handling creosote ties or creosote materials, men working with and handling epoxy material(s), topper of standing trees, feeder man on wood pulverizers, board and willow mat weavers and cable tiers on river work, deck hands, guardrail and temporary signs, pile dike and revetment work, all laborers working on underground tunnels less than twenty-five feet (25') where compressed air is not used, abutment and pier hole men working six feet (6') or more below ground, men working in coffer dams for bridge piers and footings in the river, Barca tamper, Jackson or any other similar tamp, cutting torch man, liners, curb, gutters, ditchliners, hot mastic kettleman, hot tar applicator, hand blade operators and mortar men on brick or block manholes, rubbing concrete, air tool operator under sixty-five pounds (65 lbs.), caulker and led man, chain or concrete saw under fifteen horsepower (15 HP). The unloading, handling, and carrying of concrete reinforcing bars, by hand, to the areas in which they are used, wrecking, stripping, dismantling, cleaning, moving, and oiling of all concrete forms; digging and laying sewer tile; and

B. Skilled laborer. The work falling within this subtitle of work description includes: vibrator man, asphalt raker, head pipe layer on sewer work, batterboard man on pipe and ditch work, cliff scalers working from Bosun's chairs, scaffolds, or platforms on dams or power plants over ten feet (10') high, air tool operator over sixty-five pounds (65 lbs.), stringline man on concrete paving and the like, sandblast man, laser beam man, wagon drill, churn drill, air track drill, and all other similar type drills, jackhammers, and other pneumatic hammers and tampers, Gunite nozzle man, pressure grout man, screed man on asphalt, concrete saw fifteen (15) HP and over, grade checker, stringline man on electronic grade control, manhole builder, dynamite man, powder man, welder, tunnel man waterblaster—one thousand pounds per square inch (1000 psi) over, asbestos (except mechanical systems that are not being scrapped), hazardous waste removal, disposal, or any combination of these;

[(L) Lather—Applies to workers who erect horizontal metal framework to which laths are fastened, using nails, bolts, studgun, or a combination of these, drills holes in floor and ceiling and drives ends of wooden or metal studs into holes to provide anchor for furring or rockboard laths. The occupational title of lather applies to workers who nail, clip or fasten, all types of wood, wire and metal laths, plasterboard, wallboard, rockboard, gypsum, sheetrock and acoustical materials which take the place of same to walls, ceilings and partitions of buildings to provide supporting base for plaster, fireproofing or acoustical material. The occupational title of work description for lather applies to workers who erect all metal plastering accessories which are covered or serve as ground, or both, guard, stock or screed for plaster materials,

including wire mesh. The work falling within the occupational title of work description includes:

1. The installing of carrying bars and purlins (pieces of horizontal timber), light iron and metal furring (thin strips of wood or metal to create air space) of all descriptions, such as rods, channels, flat iron, T-bar, H-bar and other ceiling bars or systems for the receipt of lath and board;

2. The wiring of plasterer channels to overhead structural framework to provide support for plaster or acoustical ceiling tile; and

3. The nailing of plaster grounds (wood or metal strips) to studding to provide a guide for those workers performing work falling within the occupational title of work description for plasterer;

(M) *Linoleum Layer and Cutter*—Applies to workers who measure, cut, sew, make-up and seam, tape, fit, lay and install and seal and wax materials to be cemented, tacked or otherwise applied to its base, wherever it may be. These materials may be used as shock-absorbing, sound-absorbing or decorative coverings. With the exception of terrazzo, magnesite and latex built-up floors, the materials include oil cloth, matting, linen, carpet, synthetic turf, linoleum, vinyl, plastic, rubber, cork, mastic, asphalt, mastipave, tile, wood tile, interlocking and magnetic tile, chalk and bulletin board, nonslip or abrasive materials, resilient, decorative seamless surface coatings, monolithic coverings (monolithic shall mean all resilient seamless material such as epoxy, polyethylene, plastics and their derivatives, components and systems) and all other resilient coverings on floors, walls, counters, table tops and ceilings. The work falling within the occupational title of work description includes:

1. The handling of materials at the point of installation;

2. The performing of all necessary preparation and finish work, such as sweeping, scraping, sanding, or chipping dirt and irregularities from base surfaces and filling cracks with putty, plaster, or cement grout to form smooth, clean foundations, drilling holes for sockets and pins;

3. The installing of underlayment, sanding and filling, fitting of metal edgings, metal corners and caps and fitting devices for attachment of these materials;

4. The spreading of adhesive cement over floor to cement foundation material to the floor;

5. The laying of covering on cement; and

6. The rolling of finished floor to smooth it out and press cement into base and covering;

(N) *Millwright*—Applies to workers who design, build, or repair mills or mill machinery; hoist, dismantle, erect, assemble, line and adjust all machines used in the transmission of power in buildings, factories or elsewhere; unload machines used in the transmission of power in buildings, factories or elsewhere, where power equipment and rigging are required. The work falling within this occupational title of work description includes: the setting of all classes of engines, direct drive motors, dynamos, turbines, generators and air compressors and pumps. The assembling, setting and packing of all compressors and pumps. The placing of all pulleys, sheaves and fly wheels on the listed equipment. The making and setting of all templates and bolts for all machinery requiring same. Drypacking for sole plates. Installation of truck and railroad scales. Installation of trash compactors. Installation of all types of conveyors. The cutting and threading of all bolts. The handling and operating of all acetylene and devices for heating, welding and cutting when used in connection with millwright work;]

(L) *Mason* (which shall include marble mason, marble finisher, terrazzo worker, terrazzo finisher, tile setter, and tile finisher).

1. *Marble Mason-Terrazzo Worker*—The work falling within

the occupational title of work description for Marble Mason-Terrazzo Worker includes:

A. The installing of marble, mosaic, venetian enamel, and terrazzo; the cutting and assembling of mosaics and art ceramics; the casting of all terrazzo on the job site; all rolling of terrazzo work;

B. The preparing, cutting, layering, or setting of metal, composition, or wooden strips and grounds on all bedding above concrete floors or walls; and the laying and cutting of metal, strips, lath, or other reinforcement, where used in terrazzo work;

C. The installing of cement terrazzo, magnesite terrazzo, dex-o-tex terrazzo, epoxy matrix terrazzo, exposed aggregate. Rustic or rough wash of exterior or interior of buildings. The mixing or applying of any other kind of mixtures of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother of pearl, quartz ceramic colored quartz, and all other kinds of chips or granules when mixed with cement, rubber, neoprene, vinyl, magnesium chloride, or any other resinous or chemical substances used for seamless flooring systems. The applying of binding materials when used on walls, floors, ceilings, stairs, saddles, or any other part of the interior or exterior of the building, or other work not considered a part of the building such as fountains, swimming pools;

D. The finishing of cement floors where additional aggregate of stone is added by spreading or sprinkling on top of the finished base and troweled or rolled into the finish and then the surface ground by grinding machines (When no additional stone aggregate is added to the finished mixture, even though the surface may be ground, the work falls within the occupational title of work description for cement masons.); and

E. The carving, cutting, and setting of all marble, slate, including slate backboards, stone, alabaster, carrara, sanionyx, vitrolite, and similar opaque glass, scagliola, marbleitic, and all artificial, imitation, or case marble of whatever thickness or dimension. This shall apply to all interior work, such as sanitary, decorative, and other purposes inside of buildings of every description wherever required, including all polish, honed, or sand finish.

2. *Marble Finisher*—The work falling within the occupational title of work description for Marble Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Marble Mason installation of construction materials on floor and/or walls; the movement of marble installation materials, tools, machines, and work devices to work areas; the erection of scaffolding and related installation structures;

B. The movement of marble slabs for installation; the drilling of holes and the chiseling of channels in edges of marble slabs to install wall anchors, using power drill and chisel; the securing of marble anchors to studding, using and covering ends of anchors with plaster to secure anchors in place;

C. The supply and mixture of construction materials for Marble Mason; the mixture of grout, as required, following standard formulas and using manual or machine mixing methods; the application of grout to installed marble; the movement of mixed mortar or plaster to installation area, manually or using wheelbarrow;

D. The removal of excess grout, using wet sponge; the cleaning of installed marble surfaces, work and storage areas, installation tools, machinery, and work aids, using water and cleaning agents;

E. The modification of mixing, material moving, grouting, polishing, and cleaning metal pieces, using a torch, spatula, and heat sensitive adhesive and filler;

F. The removal of marble installation materials and related debris from immediate work area; the storing of marble, installation material tools, machines, and related items; and

G. The provision of assistance to Marble Mason with the

following tasks: bending or forming of wire to form metal anchors, using pliers; inserting anchors into holes of marble slab; securing anchors in place with wooden stakes and plaster; selecting marble slab for installation following numbered sequences or drawings; grinding and polishing marble, using abrasives, chemical and/or manual, in machine grinding and/or polishing techniques, under Marble Mason's direction; the moving and positioning of marble.

3. Terrazzo Finisher—The work falling within the occupational title of work description for Terrazzo Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Terrazzo Worker installation of construction materials on floors, base, and/or walls; the moving of terrazzo installation materials, tools, machines, and work devices to area, manually or using wheelbarrow;

B. The supply and mixture of construction materials for Terrazzo Worker; the preparation, mixture by hand, mixture by mixing machine, or transportation of premixed materials and the distribution with shovel, rake, hoe, or pail, of all kinds of concrete foundations necessary for mosaic and terrazzo work; the dumping of mixed materials that form base or top surface of terrazzo into prepared installation site, using wheelbarrow; the measuring of designated amounts of ingredients for terrazzo or grout, using graduated containers and scale, following standard formulas and specifications, and the loading of portable mixer using proper means of transport; the mixture of materials according to experience and requests from Terrazzo Worker;

C. The spreading of marble chips or other material over fresh terrazzo surface and the pressing of the material into terrazzo by use of a roller; the application of grout finishes to surfaces of installed terrazzo; the spreading of grout across terrazzo to finish surface imperfections, using trowel; the installation of grinding stones in power grinders, using hand tools; the fine grinding and polishing of the surface of terrazzo, when grout has set, using power grinders; the application of curing agent to installed terrazzo to promote even curing, using brush or sprayer; the cutting of grooves in terrazzo stairs, using power grinder, and the filling of grooves with nonskid material;

D. The modification of mixing, grouting, grinding, and cleaning position and the securing of moisture membrane and wire mesh prior to pouring base materials for terrazzo installation;

E. The washing of the surface of polished terrazzo, using cleaner and water, and the application of sealer, according to manufacturer specifications, using brush; the cleaning of the installation site, and storage areas, tools, machines, and equipment; the removal of Terrazzo Worker materials and related debris from immediate work area; and

F. The provision of assistance to Terrazzo Worker with the following tasks: grinding surfaces of cured terrazzo; using power grinders.

4. Tile Setter—The work falling within the occupational title of work description for Tile Setter includes:

A. The application of tile to floors, walls, ceilings, stair treads, promenade roof decks, garden walks, swimming pools, and all places where tiles may be used to form a finished surface for practical use, sanitary finish, or decorative purpose. (Tile includes all burned clay products, as used in the tile industry, either glazed or unglazed, all composition materials; all substitute materials in single units up to and including, fifteen inches by twenty inches by two inches (15" × 20" × 2") (except quarry tiles larger than nine inches by eleven inches (9" × 11")) and all mixtures in the form of cement, plastics, and metals that are used as a finished surface.);

B. The cutting and shaping of tile with saws, tile cutters, and biters; and

C. The positioning of tile and tapping it with a trowel han-

dle to affix tile to plaster or adhesive base.

5. Tile Finisher—The work falling within the occupational title of work description for Tile Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods for Tile Setter to install construction materials on floors and walls; the movement of tiles, tile setting tools, and work devices from storage area to installation site manually or using wheelbarrow;

B. The supply and mixture of materials for Tile Setter; the supply and mixture of construction materials for Tile Setter; the mixture of mortar and grout accordingly to standard formulas and request from Tile Setter using bucket, water hose, spatulas, and portable mixer; the modification of mixing, grouting, grinding, and cleaning procedures according to type of installation or material used; the supply to Tile Setter of mortar, using wheelbarrow and shovel; the application of grout between joints of installed tile, using grouting trowel; the application of grout; the cutting of installed tile;

C. The removal of excess grout from tile joints with a sponge and scraping of corners and crevices with a trowel; the application of caulk, sealers, acid, steam, or related agents to caulk, seal, or clean installed tile, using various application devices and equipment;

D. The wiping of surfaces of tile after grouting to remove grout residue and polish tile, using non-abrasive materials; the removal of Tile Setter materials and related debris from immediate work area; the cleaning of installation site, mixing and storage tools, and equipment, using water and various cleaning tools; the storing of tile setting material machines, tools, and equipment; and

E. The provision of assistance to Tile Setter to secure position of metal lath, wire mesh, felt paper, Dur/rock or wonder-board prior to installation of tile;

[(O)](M) Operating Engineer (which shall include operating engineer group I, operating engineer group II, operating engineer group III, operating engineer group III-A, operating engineer group IV, and operating engineer group V)—*[The]* Applies to workers who perform work falling within the occupational title of work description for operating engineer/portable and hoisting *[operate]* operator, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment. This occupational title encompasses several subclassifications, with the title and work description considered in light of whether the public works project pertains to building construction or heavy/highway construction.

1. Building construction. The subtitles falling within the occupational title of work description for operating engineer, as applicable to building construction, are as follows:

A. Group I—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: crane (for example, crawler or truck); dragline—clam shell—gradall; Derrick (all types); kimmer scoop; power shovel or backhoe over one (1) cubic yard; pile driver (for example, land or floating); Whirley; mechanic and welder; hydraulic, self-propelled crane; stinger or cherry picker crane; switch boat; concrete portable plant/concrete mixer paver; cableways;

B. Group II—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: asphalt paver and spreader/concrete spreader; asphalt plant mixer operators; asphalt plant operator; backfillers; back hoe (under one (1) cubic yard); Barber-Green loader (similar type); blade—power, all types; boats—power; boilers; boring machine (all types, including tunnel boring); brooms—power operated (all types); concrete saw (self-propelled); chip spreader (front man); clef plane operators; combination

concrete hoist and mixer such as mix or mobile; crab—power operated; crusher rock; ditching machine; dozer/dredges; finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist operator (all types); hopper—power operated; hydra hammer (all types); Lad-A-Vator—similar type; loaders—all types, including skid-steer (for example, */b/Bobcat*); locomotives (all types); curb finishing machine; mucking machine; orange peels; pumps (all types); push cats; rollers (all types); scoops (all types except skimmer scoop); self-propelled rotary drill; air compressors (all types); side boom; siphons, jets, and jennies; welding machine; subgrader; testhole machine; throttle man tractors over fifty (50) HP; air tugger with air compressor; anchor placing barge; Ahoy force feeder loader (self-propelled); bull float; pipe cleaning/wrapping machine; conveyor; heaters, fuel fired with forced air; quadtrack; tie tamper; vibrating machine; well drilling machine; forklift (except masonry forklift);

C. Group III—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: tractors (under fifty (50) HP); distributor (bituminous); scissor lift; small machine (operator); mud jack; wench truck operator; pug mill operator; elevator-push button; A-frame truck; mixers; oilers;

D. Group III-A—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as a masonry forklift;

E. Group IV—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as a self-propelled floor sweeper; and

F. Group V—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: elevator—auto; air pressure oiler; air pressure engineer.

2. Heavy/highway construction. The subtitles falling within the occupational title of work description for operating engineer, as applicable to heavy/highway construction, are as follows:

A. Group I—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: asphalt finishing machine and trench; widening spreader; asphalt plant console operator; autograder; automatic slipform paver; backhoe; blade operator (all types); boat operator (all types); boilers—two (2); central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; Derrick or Derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader including skid steer (for example, */b/Bobcat*); hoisting engine—two (2) active drums; launchhammer wheel; locomotive operator—standard gauge; mechanics and welders; mucking machine; piledriver operator; Pitman crane operator; push cat operator; quadtrack; scoop operator—all types; shovel operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane;

B. Group II—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; Barber-Greene loader; chip spreader; concrete mixer operator, skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; forklift; greaser—fleet; hoisting engine—one (1); locomotive operator—narrow gauge; multiple compactor; pavement breaker; power-

broom—self-propelled; power shield; rooter; side discharge concrete spreader; slip form finishing machine; stumpcutter machine; throttle man; tractor operator—over fifty (50) HP; wench truck;

C. Group III—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as follows: boilers—one (1); chip spreader (front man); churn drill operator; clef plane operator; concrete saw operator self-propelled; curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high-type asphalt; screening and washing plant operator; siphons and jets; subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator—combination boiler and booster; tractor operator fifty (50) HP or less; Ulmac, Ulric, or similar spreader; vibrating machine operator, not hand;

D. Group IV—This subtitle applies to workers who operate, monitor, and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically, or any power-operated equipment set forth as an oiler or oiler-driver (fireman—rig; maintenance operator); *[and]*

[E. Oiler-driver—This subtitle applies to workers who operate, monitor and control, repair, modify, assemble, erect, oil, service each or all electrically or electronically, hydraulically or any power-operated equipment set forth as follows: fireman—rig; maintenance operator;]

(N) Outside- lineman, lineman operator, groundman, lineman tree trimmer, groundman tree trimmer, and any combination thereof.

1. Outside-lineman—Applies to workers who erect and repair transmission poles (whether built of wood, metal, or other material), fabricated metal transmission towers, outdoor substations, switch racks, or similar electrical structures, electric cables, and related auxiliary equipment for high-voltage transmission and distribution powerlines used to conduct energy between generating stations, substations, and consumers. The work (overhead and underground) falling within this occupational title of work description includes:

A. Construction, repair, or dismantling of all overhead and underground electrical installations. The handling and operation of all equipment used to transport men, tools, and materials to and from the job site. The framing, trenching, digging, and backfilling of vaults, holes and poles, and anchors (by hand or mechanical equipment), guying, fastening to the stub-in on concrete footings or pads, assembling of the grillage, grounding of all structures, stringing overhead wire, installing underground wire, splicing, and installation of transformers;

B. Construction and repair of highway and street lighting and traffic signal systems, cathodic protection systems, and ball field lighting systems;

2. Lineman operator—Operates equipment used on the outside line portion of a project. The lineman operator assists linemen in the performance of their work but does not climb or work out of any type of aerial lift equipment. The lineman operator does not perform any work that requires the use of hand tools;

3. Groundman—Work performed on the ground to assist the journeymen outside line construction/lineman on work not energized. Groundmen use jack hammers, air drills, shovels, picks, tamps, trenching equipment, and other such tools for excavating and/or compacting dirt or rock on the outside line portion of a project but do not use hand tools;

4. Lineman tree trimmer—Trimming and removal of trees, stumps, limbs, brush, and other related tasks in and around electrical systems by use of chainsaws, pruners, pole saws, and hand saws only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of

electrical utility lines. Lineman tree trimmer work may be performed on the ground and in the air; and

5. Groundman tree trimmer—Assists the lineman tree trimmer in the performance of their work using rakes, chainsaws, chippers, and industrial mowers in and around electrical systems only when specifically required to provide clearance and right-of-way preparation for installation of overhead or underground high-voltage electric utility lines, and excluding the clearance of right-of-ways related to heavy-highway construction or other public projects not directly related to the installation of electrical utility lines. Groundman tree trimmer work is only performed on the ground;

[(P)](O) Painter—The work falling within the occupational title of work description for painter includes:

1. Preparation of surfaces. The washing, cleaning, pointing, and taping of drywall, regardless of material used, and smoothing of surfaces, using sandpaper, brushes, or steel wool. The removal of old paint or other coatings from surfaces, using paint remover, scraper, wire brushing, sandblasting, water blasting, liquid steam, or by any other similar process. The filling of nail holes, cracks, and joints with putty, plaster, or other fillers;

2. Color matching and mixing. The application of paint, varnish, stain, enamel, lacquer, vinyl, wallpaper, and other materials of whatever kind of quality applied to walls or ceilings with paste or adhesive, using brushes, spray gun (spray painter), or paint rollers. The application of polyurethane elastomers, vinyl plastics, neoprene, resin, polyester, and epoxy as waterproofing or protective coatings to any kind of surface (except roofs) when applied with brushes, spray guns, or rollers;

3. Texturing and decorating. The erecting of scaffolding or setting up of ladders to perform the work above ground level. The paperhanging of walls and ceilings with decorative wall coverings made of fabric, vinyl, or paper. The preparing of the surface to be covered by applying sizing, which seals the surface and makes the covering stick better. The removal of the old covering by soaking, steaming, or applying solvents. The patching of holes and other imperfections before applying the new wall covering. The measuring of the area to be covered; the cutting of the covering into strips of the proper size, the checking of the covering for flaws and the examination of the pattern so it can be matched when the strips are hung. The preparation of paste or other adhesives according to manufacturers' directions, and the brushing or rolling it on the covering. The placing of the strips on the wall or ceiling, to match adjacent patterns. The smoothing of the strips to remove bubbles and wrinkles; the trimming of the top and bottom with a razor blade; and the painting or taping of highway striping, or both; and

4. Cleanup. The cleanup of tools and equipment required in connection with work falling within this occupational title;

[(Q)] Plasterer—Applies to workers who apply gypsum, Portland cement, stucco, imitation stone and kindred materials and products to interior walls, ceilings and partitions and to exterior walls of buildings, and finish those materials and products. The work falling within the occupational title of work description includes:

1. The spreading of plaster over laths, masonry or any other base, using trowel; and smoothing the plaster with darby and float for uniform thickness;

2. The application of the various manufacturers' brand names of thin coat or plaster veneer;

3. The application of all bonding agents and mastical;

4. The roughing of undercoat with wire or metal scraper to provide bond for succeeding coat of plaster;

5. The application of all malleable plastic materials and epoxy materials;

6. The setting in place of plasterboard, insulation board, styrofoam and bead-board, ground, locks, patent dots, cork plates, brownstone and acoustical tile, fiberglass reinforcement and finished products;

7. The plastering of joints, nail holes and bruises on wallboard;

8. The grouting and filling of door bucks, runners and similar installations, in conjunction with plastering operations;

9. The application of scratchcoat, browncoat and finish coat of plaster to wood, metal or board laths successively to all ceilings and walls when finished with terrazzo or tile, and the application of any plastic material to same;

10. The fireproofing of all building assemblies with plaster materials, sprayed fiberglass or similar materials, whether applied to gypsum, metal lath or directly;

11. The application of crushed stone, marble or ceramic chips and broken glass where embedded in plaster, or similar materials;

12. The placing of acoustic blocks with any plastic material, regardless of thickness;

13. The placing, by any method, of plaster or composition caps and ornaments;

14. The creating of decorative textures in finish coat by marking surface of coat with brush and trowel or by spattering it with small stones (stucco) where plastering equipment or materials, or both, are used; and

15. The operation and control of all types of plastering machines, including power trowels and floats;]

[(R)](P) Plumber—Applies to workers who install and repair domestic potable water lines, gravity waste disposal systems inside the curb or fence lines, plumbing fixtures such as: bathtubs, sinks and toilets—and appliances such as, dishwashers and water heaters. The work falling within the occupational title of work description for plumber includes:] (which shall include pipe fitter).

1. General Plumber—Applies to workers who install and repair domestic potable water lines, gravity waste disposal systems inside the curb or fence lines, plumbing fixtures such as: bathtubs, sinks, and toilets—and appliances such as, dishwashers and water heaters. The work falling within the occupational title of work description for plumber includes:

[1./A. Assembling and installing piping systems, fixtures and equipment for the transportation of domestic water and sewage. Piping systems installed in structures (for example, buildings, industrial plants) to the first Y, T, or connection located outside the building;

[2./B. Cutting, threading, and bending pipe. Joining pipes by use of screws, bolts, fittings, solder, welding brazing, and caulking or any other method of making joints in the plumbing industry;

[3./C. Assembling, installing, and repairing valves, pipe fittings, and pumps. Testing the piping system. Installing and repairing plumbing fixtures, such as sinks, bathtubs, water heaters, and water softeners; and

[4./D. Cutting holes in floors and walls for pipes with point and hammer, core drill, or both;].

2. Pipe Fitter—Applies to workers who fabricate, install, and repair piping systems to include: water and waste processing systems; heating and air-conditioning systems, pneumatic controls, and pneumatic delivery systems; powerhouse and all pressurized piping systems; gas, oxygen systems; gasoline systems not for public sale. The work falling within this occupational title of work description includes:

A. Piping systems installed in structures (for example, buildings, industrial plants, and the like);

B. Cutting, threading, and bending pipe. Joining pipes by use of screws, bolts, fittings, solder, welding, and caulking, or any other method of making joints in the pipefitting industry;

C. Assembling, installing, and repairing valves, pipe fittings, and pumps. Testing the piping system. Cutting holes in floors and walls for pipes with point and hammer, core-drill, or both;

D. Installing of distribution lines (for example, water mains, sewer mains, oil and gas lines);

E. Welding of steel pipe joints and joining pipes with screws, bolts, fittings, solder, caulking, or any other method for making joints in the industry; and

F. Joining ductile iron and plastic pipes by using any method for making joints in the industry, when the pipe will be under pressure;

[(S) Pile Driver—The work falling within the occupational title of work description for pile driver includes:

1. The handling, layout, driving, cutting and splicing of wood, metal or concrete piling regardless of purpose (for example, sheets, I-beams, pile caps and welding to piling);

2. The assembly, disassembly and rigging of the pile driving equipment; and

3. The conduct of underwater diving that is incidental to pile driving work;

(T) Pipe Fitter—Applies to workers who fabricate, install and repair piping systems to include: water and waste processing systems; heating and air-conditioning systems, pneumatic controls and pneumatic delivery systems; powerhouse and all pressurized piping systems; gas, oxygen systems; gasoline systems not for public sale. The work falling within this occupational title of work description includes:

1. Piping systems installed in structures (for example, buildings, industrial plants and the like);

2. Cutting, threading and bending pipe. Joining pipes by use of screws, bolts, fittings, solder, welding and caulking, or any other method of making joints in the pipefitting industry;

3. Assembling, installing, and repairing valves, pipe fittings and pumps. Testing the piping system. Cutting holes in floors and walls for pipes with point and hammer, core-drill, or both;

4. Installing of distribution lines (for example, water mains, sewer mains, oil and gas lines);

5. Welding of steel pipe joints and joining pipes with screws, bolts, fittings, solder, caulking or any other method for making joints in the industry; and

6. Joining ductile iron and plastic pipes by using any method for making joints in the industry, when the pipe will be under pressure;]

[(U)](Q) Roofer/[Waterproofer]—Applies to workers who apply and install any and all types of roofing materials, other than sheet metal. The work falling within this occupational title of work description includes:

1. The installation of slate and tile and all substitute materials taking the place of slate and tile used for roofing including flat or promenade slate, with necessary metal flashing to make water-tight;

2. The cementing in, on, or around slate and tile roofs. The laying of felt or paper beneath the slate and tile. The dressing, punching, and cutting of all roof slate or tile either by hand or machinery;

3. The installation of all forms of plastic, slate, slag, gravel; asphalt and composition roofing; rock asphalt mastic when used for damp and waterproofing; prepared paper; compressed paper and chemically prepared paper, and burlap with or without coating. The installation of all damp resisting preparations regardless of the method of application in or outside of building. The installation of damp courses, sheeting, or coating on foundation work and tarred roofs. The laying of the tile or brick, when laid in asphalt or pitch tar;

4. The installation and application of new materials used in roofing, water-proofing, encapsulation, and containment process including all forms of elastomeric or plastic (elastoplastic), or both, roofing systems, both sheet and liquid applied, whether single-ply or multi-ply. The installation of aggregates or stone, used as a ballast for inverted roofing membrane assembly, or roof of similar construction where insulation is laid over the roofing membrane. The sealing and caulking of seams and joints on these elastoplastic systems to insure water-tight-

ness. The applying of liquid-type elastoplastic preparation for roofing, damp, or waterproofing when applied with a squeegee, trowel, roller, or spray equipment whether applied inside or outside of a building. The priming of surfaces to be roofed, damp, or waterproofed, whether done by roller, mop, swab, three- (3-)/-/- knot brush, or spray systems. The waterproofing of all types of preformed panels;

5. The application of all types of spray-in-place such as urethane or polyurethane, and the coatings that are applied over them;

6. The application of roof insulation, when the insulation material is applied as an integral part of the roofing system, whether the insulation material is applied as the first, last, or any other layer in between;

7. The operation and servicing of all kettles, bulk tankers, stationary heating tankers, and other types of equipment and tools used to accomplish this work (including heating systems for the operation of the equipment); and compressors for applying roofing material components, roof and mop carts, hydraulics, tools and equipment, be it hand or power, needed to apply waterproofing, insulated, and roofing materials;

8. The handling, hoisting, and storing of all roofing, damp, and waterproofing materials; and

9. The tear-off, removal, or both, of any type of roofing, all spudding, sweeping, vacuuming, cleanup, or a combination of these, of any areas of any type where a roof is to be relayed;

[(V)](R) Sheet Metal Worker—The work falling within the occupational title of sheet metal worker includes:

1. The handling, conditioning, assembling, installing, servicing, repairing, altering, and dismantling of the duct work for the heating, ventilation, and air-conditioning systems regardless of the materials used and the setting of all equipment and all supports and reinforcements in connection with the system;

2. The installation of expansion and discharge valves, air filters, and water filters in heating, ventilation, and air-conditioning systems;

3. The testing and balancing of air-handling equipment and duct work;

4. The forming, rolling, drawing, stamping, or pressing of sheet metal shingles, sheet metal tile, sheet metal brick, sheet metal stone, and sheet metal lumber, when specified for use as roofing, siding, waterproofing, weather proofing, fire proofing, or for ornamental or any other purpose;

5. The performing of sheet metal work specified for use in connection with or incidental to steeples, domes, minarets, look outs, dormers, louvers, ridges, copings, roofing, decking, hips, valleys, gutters, outlets, roof flanges, flashings, gravel stops, leader heads, down spouts, mansards, balustrades, skylights, cornice moulding, columns, capitals, panels, pilasters, mullions, spandrels, and any and all other shapes, forms and design of sheet metal work specified for use for waterproofing, weatherproofing, fire proofing, ornamental, decorative, or display purposes, or as trim on exterior of the buildings;

6. The installing of sheet metal ceilings with cornices and mouldings of plain, ornamental, enameled, glazed, or acoustic type;

7. The installing of side walls, wainscoting of plain, ornamental, enameled, or glazed types, including sheet metal tile;

8. The application of all necessary wood or metal furring, plastic, or other materials, to which they are directly applied;

9. The performing of sheet-metal work specified for use in connection with or incidental to direct, indirect, or other types of heating, ventilating, air-conditioning, and cooling systems (including risers, stacks, ducts, S strips, fittings, dampers, casings, recess boxes, outlets, radiator enclosures, exhausts, ventilators, frames, grisses, louvers, registers, cabinets, fans, and motors);

10. The air washers, filters, air brushes, housings, air-conditioning chambers;

11. The setting and hanging of air-conditioning units, unit heaters or air-veyor systems, and air handling systems regardless of material used;

12. The assembling and setting up of all cast iron parts, warm air furnace, all stoker, gas, and oil burner equipment used in connection with warm air heating, all sheet metal hoods, casings, wall stacks, smoke pipes, truck lines, cold air intake, air chambers, vent pipes, frames, registers, dampers, and regulation devices;

13. The installing of equipment utilized in the operation of kitchens including ranges, canopies, steam tables, work tables, dishwashers, coffee urns, soda fountains, warming closets, sinks, drainboards, garbage chutes, incinerators, and refrigerators;

14. The installing of tubing, pipes, and fittings, used in connection with or incidental to coppersmithing work. The installation of fume hoods, metal toilet partitions, metal lockers, plain metal shelving; and

15. The handling, moving, hoisting, and storing of all sheet metal materials on the job site, where power equipment and rigging are required;

[(W)](S) Sprinkler Fitter—[Fire Protection—] Applies to workers who perform the installation, adjustments, and corrections, repair, and dismantling of all fire protection and fire control systems and the installation of all fire piping for tubing, appurtenances, and equipment. The work falling within the occupational title includes: The handling and installation of all piping and appurtenances pertaining to sprinkler equipment, including both overhead and underground water mains, fire hydrants and hydrant mains, standpipes, and hose connections to the sprinkler systems, sprinkler tank heaters, air lines and thermal systems used in connection with sprinkler and alarm systems, tank and pump connections, and fire protection systems using mulsifyre, spray, water, fog, carbon dioxide (CO₂), gas and foam and dry chemical systems; **and**

[(X) Terrazzo and Marble Occupational Titles—This subsection sets forth work descriptions for three (3) occupational titles related to terrazzo and marble work.

1. *Terrazzo Worker-Marble Mason—The work falling within the occupational title of work description for Terrazzo Worker-Marble Mason includes:*

A. *The installing of marble, mosaic, venetian enamel and terrazzo; the cutting and assembling of mosaics and art ceramics; the casting of all terrazzo on the job site; all rolling of terrazzo work;*

B. *The preparing, cutting, layering or setting of metal, composition or wooden strips and grounds on all bedding above concrete floors or walls; and the laying and cutting of metal, strips, lath or other reinforcement, where used in terrazzo work;*

C. *The installing of cement terrazzo, magnesite terrazzo, dex-o-tex terrazzo, epoxy matrix terrazzo, exposed aggregate. Rustic or rough wash of exterior or interior of buildings. The mixing or applying of any other kind of mixtures of plastics composed of chips or granules of marble, granite, blue stone, enamel, mother of pearl, quartz ceramic colored quartz, and all other kinds of chips or granules when mixed with cement, rubber, neoprene, vinyl, magnesium chloride or any other resinous or chemical substances used for seamless flooring systems. The applying of binding materials when used on walls, floors, ceilings, stairs, saddles or any other part of the interior or exterior of the building, or other work not considered a part of the building such as fountains, swimming pools;*

D. *The finishing of cement floors where additional aggregate of stone is added by spreading or sprinkling on top of the finished base and troweled or rolled into the finish and then the surface ground by grinding machines (When no additional stone aggregate is added to the finished mixture, even though the surface may be ground, the work falls within the occupational title of work description for cement masons.); and*

E. *The carving, cutting and setting of all marble, slate, including slate backboards, stone, albereen, carrara, san-*

ionyx, vitrolite and similar opaque glass, scagliola, marbleitic and all artificial, imitation or case marble of whatever thickness or dimension. This shall apply to all interior work, such as sanitary, decorative and other purposes inside of buildings of every description wherever required, including all polish, honed or sand finish;

2. *Marble Finisher—The work falling within the occupational title of work description for Marble Finisher includes:*

A. *The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Marble Mason installation of construction materials on floor and/or walls; the movement of marble installation materials, tools, machines, and work devices to work areas; the erection of scaffolding and related installation structures;*

B. *The movement of marble slabs for installation; the drilling of holes and the chiseling of channels in edges of marble slabs to install wall anchors, using power drill and chisel; the securing of marble anchors to studding, using and covering ends of anchors with plaster to secure anchors in place;*

C. *The supply and mixture of construction materials for Marble Mason; the mixture of grout, as required, following standard formulas and using manual or machine mixing methods; the application of grout to installed marble; the movement of mixed mortar or plaster to installation area, manually or using wheelbarrow;*

D. *The removal of excess grout, using wet sponge; the cleaning of installed marble surfaces, work and storage areas, installation tools, machinery, and work aids, using water and cleaning agents;*

E. *The modification of mixing, material moving, grouting, polishing, and cleaning metal pieces, using a torch, spatula, and heat sensitive adhesive and filler;*

F. *The removal of marble installation materials and related debris from immediate work area; the storing of marble, installation material tools, machines, and related items; and*

G. *The provision of assistance to Marble Mason with the following tasks: bending or forming of wire to form metal anchors, using pliers; inserting anchors into holes of marble slab; securing anchors in place with wooden stakes and plaster; selecting marble slab for installation following numbered sequences or drawings; grinding and polishing marble, using abrasives, chemical and/or manual, in machine grinding and/or polishing techniques, under Marble Mason's direction; the moving and positioning of marble;*

3. *Terrazzo Finisher—The work falling within the occupational title of work description for Terrazzo Finisher includes:*

A. *The preparation of floors, and/or walls by scraping, sweeping, grinding, and related methods to prepare surface for Terrazzo Worker installation of construction materials on floors, base and/or walls; the moving of terrazzo installation materials, tools, machines, and work devices to area, manually or using wheelbarrow;*

B. *The supply and mixture of construction materials for Terrazzo Worker; the preparation, mixture by hand, mixture by mixing machine, or transportation of pre-mixed materials and the distribution with shovel, rake, hoe or pail, of all kinds of concrete foundations necessary for mosaic and terrazzo work; the dumping of mixed materials that form base or top surface of terrazzo into prepared installation site, using wheelbarrow; the measuring of designated amounts of ingredients for terrazzo or grout, using graduated containers and scale, following standard formulas and specifications, and the loading of portable mixer using proper means of transport; the mixture of materials according to experience and requests from Terrazzo Worker;*

C. *The spreading of marble chips or other material*

over fresh terrazzo surface and the pressing of the material into terrazzo by use of a roller; the application of grout finishes to surfaces of installed terrazzo; the spreading of grout across terrazzo to finish surface imperfections, using trowel; the installation of grinding stones in power grinders, using hand tools; the fine grinding and polishing of the surface of terrazzo, when grout has set, using power grinders; the application of curing agent to installed terrazzo to promote even curing, using brush or sprayer; the cutting of grooves in terrazzo stairs, using power grinder, and the filling of grooves with nonskid material;

D. The modification of mixing, grouting, grinding, and cleaning position and the securing of moisture membrane and wire mesh prior to pouring base materials for terrazzo installation;

E. The washing of the surface of polished terrazzo, using cleaner and water, and the application of sealer, according to manufacturer specifications, using brush; the cleaning of the installation site, and storage areas, tools, machines, and equipment; the removal of Terrazzo Worker materials and related debris from immediate work area; and

F. The provision of assistance to Terrazzo Worker with the following tasks: grinding surfaces of cured terrazzo; using power grinders;

(Y) Tile Occupational Titles—This subsection sets forth work descriptions for two (2) occupational titles related to tile work.

1. Tile Setter—The work falling within the occupational title of work description for Tile Setter includes:

A. The application of tile to floors, walls, ceilings, stair treads, promenade roof decks, garden walks, swimming pools and all places where tiles may be used to form a finished surface for practical use, sanitary finish or decorative purpose. (Tile includes all burned clay products, as used in the tile industry, either glazed or unglazed, all composition materials; all substitute materials in single units up to and including, fifteen inches by twenty inches by two inches (15" × 20" × 2") (except quarry tiles larger than nine inches by eleven inches (9" × 11")) and all mixtures in the form of cement, plastics and metals that are used as a finished surface.);

B. The cutting and shaping of tile with saws, tile cutters and biters; and

C. The positioning of tile and tapping it with a trowel handle to affix tile to plaster or adhesive base.

2. Tile Finisher—The work falling within the occupational title of work description for Tile Finisher includes:

A. The preparation of floors and/or walls by scraping, sweeping, grinding, and related methods for Tile Setter to install construction materials on floors and walls; the movement of tiles, tile setting tools, and work devices from storage area to installation site manually or using wheelbarrow;

B. The supply and mixture of materials for Tile Setter; the supply and mixture of construction materials for Tile Setter; the mixture of mortar and grout accordingly to standard formulas and request from Tile Setter using bucket, water hose, spatulas, and portable mixer; the modification of mixing, grouting, grinding, and cleaning procedures according to type of installation or material used; the supply to Tile Setter of mortar, using wheelbarrow and shovel; the application of grout between joints of installed tile, using grouting trowel; the application of grout; the cutting of installed tile;

C. The removal of excess grout from tile joints with a sponge and scraping of corners and crevices with a trowel; the application of caulk, sealers, acid, steam, or related agents to caulk, seal, or clean installed tile, using various application devices and equipment;

D. The wiping of surfaces of tile after grouting to

remove grout residue and polish tile, using non-abrasive materials; the removal of Tile Setter materials and related debris from immediate work area; the cleaning of installation site, mixing and storage tools, and equipment, using water and various cleaning tools; the storing of tile setting material machines, tools, and equipment; and

E. The provision of assistance to Tile Setter to secure position of metal lath, wire mesh, felt paper, Dur/rock or wonderboard prior to installation of tile; and]

[(Z)](T) Truck Driver[-Teamster/Traffic Control Service Driver] (which shall include truck control service driver, truck driver group I, truck driver group II, truck driver group III, and truck driver group IV)—The workers who perform work falling within the occupational title of work description for truck driver/-teamster/ includes the operation, repair, and servicing of the following mechanical equipment. This occupational title encompasses several subclassifications, with the title and work description considered in light of whether the public works project pertains to building construction or heavy/highway construction.

1. Building construction. The subtitles falling within the occupational title of work description for truck driver/-teamster/, as applicable to building construction, are as follows:

A. Truck control service driver – Applies to workers who perform work including:

(I) The delivery, installation, and pickup of traffic control devices;

(II) The unloading and installation of barricades, plastic channelizer drums, safety cones, and temporary flashing lights not to exceed one hundred fifteen (115) volts;

(III) Regular periodic inspections to assure that traffic control devices are clean, clearly visible, and properly positioned. Inspection and maintenance includes replacing batteries and bulbs in lights, cleaning reflective material and lenses, and repairing or replacing damaged or missing devices when incidental to and part of a public works construction project; and

(IV) Removal of all traffic control devices by loading them on a truck and driving them to a storage yard where they are unloaded;

[A./B. Group I—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks single axle, station wagons, pick-up trucks, material trucks single axle, tank wagon single axle;

[B./C. Group II—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: agitator and transit mix-trucks;

[C./D. Group III—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks tandem axle, articulated dump trucks, material trucks tandem axle, tank wagon tandem axle; and

[D./E. Group IV—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: semi and/or pole trailers, winch, fork and steel trucks, distributor drivers and operators, tank wagon semi-trailer, Insley wagons, dumpsters, halftracks, speedace, euclids, and other similar equipment, A-frame and Derrick trucks, float or low boy, and boom truck.

2. Heavy/highway construction. The subtitles falling within the occupational title work description for truck driver/-teamster/, as applicable to heavy/highway construction, are as follows:

A. Truck control service driver – Applies to workers who perform work including:

(I) The delivery, installation, and pickup of traffic control devices;

(II) The unloading and installation of barricades, plastic channelizer drums, safety cones, and temporary flashing lights not to exceed one hundred fifteen (115) volts;

(III) Regular periodic inspections to assure that traffic control devices are clean, clearly visible, and properly positioned. Inspection and maintenance includes replacing batteries and bulbs in lights, cleaning reflective material and lenses, and repairing or replacing damaged or missing devices when incidental to and part of a public works construction project; and

(IV) Removal of all traffic control devices by loading them on a truck and driving them to a storage yard where they are unloaded;

[A./B. Group I—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks single axle, station wagons, pick-up trucks, material trucks single axle, tank wagon single axle;

[B./C. Group II—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: agitator and transit mix-trucks;

[C./D. Group III—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: flat bed trucks tandem axle, articulated dump trucks, material trucks tandem axle, tank wagon tandem axle; and

[D./E. Group IV—This subtitle applies to workers who operate, monitor, control, repair, modify, assemble, erect, oil, and service the following equipment: semi-and/or pole trailers, winch, fork and steel trucks, distributor drivers and operators, tank wagon semi-trailer, Insley wagons, dumpsters, halftracks, speedace, euclids, and other similar equipment, A-frame and Derrick trucks, float or low boy, and boom truck.

[3. The workers who perform work falling within the occupational title of traffic control service driver include:

A. The delivery, installation and pickup of traffic control devices;

B. The unloading and installation of barricades, plastic channelizer drums, safety cones and temporary flashing lights not to exceed one hundred fifteen (115) volts;

C. Regular periodic inspections to assure that traffic control devices are clean, clearly visible and properly positioned. Inspection and maintenance includes replacing batteries and bulbs in lights, cleaning reflective material and lenses and repairing or replacing damaged or missing devices when incidental to and part of a public works construction project; and

D. Removal of all traffic control devices by loading them on a truck and driving them to a storage yard where they are unloaded.]

AUTHORITY: section 290.240.2., RSMo [2000] *Supp. 2018*. Original rule filed Sept. 15, 1992, effective May 6, 1993. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Nov. 21, 2018, effective Dec. 1, 2018, expires May 29, 2019. Amended: Filed Nov. 21, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Matt Cowell, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 110—Division of Youth Services
Chapter 7—Juvenile Court Diversion

PROPOSED RULE

13 CSR 110-7.010 Community-Based Diversionary Programs

PURPOSE: *This rule establishes standards of eligibility and operation of Community-Based Diversionary Programs funded through grants from the Division of Youth Services pursuant to section 219.041, RSMo.*

(1) The Division of Youth Services (DYS) is authorized under section 219.041, RSMo, to administer a Juvenile Court Diversion Grant Program (JCD Grant Program) for the purpose of assisting local units of government in the development and implementation of community-based treatment programs for the care and treatment of youth.

(2) The goal of the program is to support juvenile courts to serve youth on a local level so that youth may be afforded the necessary services through their local courts in order that they can remain in the community rather than being exposed to a larger segment of the juvenile justice system.

(3) The Director of DHS may designate an employee of the division to act as the authorized representative of the division for the purpose of entering into and administering contractual services agreements between the division and a local juvenile court.

(4) The local juvenile court shall not supplant funds because of the implementation of the JCD Grant Program in accordance with section 219.041.8, RSMo.

(5) The standards for the JCD Grant Program shall be—

(A) Programs initiated with JCD Grant Funds shall be consistent with the evidence-based and promising-practices approach described in the *“Office of Juvenile Justice and Delinquency Prevention’s Model Programs Guide”* and shall contain projects within one (1) or more of the following focus areas:

1. School and education support programs, including day treatment services and other community-based programs, that provide educational and treatment services to youth to keep them productively involved in their local communities;

2. Counseling/treatment services, including sex offender treatment and supervision services providing community-based sex-offense specific treatment groups, parent support groups, and in-home therapy and supervision to pre-and post-adjudicated juvenile sex offenders;

3. Family support/preservation, including family therapy and support services, to assist youth in working through family issues and providing tools to resolve conflict;

4. Supplemental court services/supervision/gang prevention, including community-based supervision of assigned youth during the evenings and weekends when youth are at the greatest risk to engage in unproductive and unlawful behavior. This includes the monitoring of assigned youth to ensure that they are complying with the conditions of their community placement and the provision of supportive services such as parent education, crisis intervention, mentoring, and skill-building as needed; and it includes mentoring services by which volunteer mentors are recruited, trained, matched with troubled youth, and supported in their work with them. Participating youth may be under either formal or informal supervision by the court during their time in the program;

5. Restorative justice services by which juvenile offenders are held accountable and educated as to the far-reaching impact of their behaviors; and

6. Private care diversion services designed for those youth who require structured residential services specialized in providing treatment for their complex needs. Under this program, youth are served in alternative living centers without committing them to the care and supervision of DYS.

(B) Projects shall fall within a general program description supported by organizations such as the Office of Juvenile Justice and Delinquency Prevention. Projects may provide for—

1. Educational services/tutoring;
2. School/court liaisons;
3. Day treatment/alternative schools;
4. Jobs/vocational training/job placement;
5. Recreational/after school programs;
6. Truancy prevention;
7. Suspension/expulsion alternatives;
8. Violence prevention;
9. Community group counseling;
10. Anger management;
11. Mental health services;
12. Substance abuse prevention;
13. Sex offender therapy;
14. Prevention education/treatment;
15. Mentoring/advocacy;
16. Family therapy;
17. Family support preservation;
18. Parenting skills;
19. Family mediation;
20. Teen court;
21. Electronic monitoring/intensive supervision;
22. Gang prevention/intervention;
23. Drug court;
24. Gang education;
25. Restitution program services;
26. Community service;
27. Victim mediation;
28. Community accountability program services;
29. Alternative residential placement;
30. Purchased residential care (foster/shelter); and
31. Other model programs providing probation, supervision, family support, or restorative justice services.

(6) For those projects where youth will be placed in residential care with a private contractor, the contractor must have and maintain a license in good standing from the Department of Social Services, Children's Division. The JCD Grant recipient must have a written agreement in place with each contractual residential care provider that requires the provider to notify the JCD Grant recipient within ten days of any change in the provider's licensing status. The JCD Grant recipient shall then notify DYS of any change in the provider's licensing status within ten days and shall arrange for alternative placement of the youth unless an express written waiver is provided by the DYS.

(7) Applications for the JCD Grant Program shall be made in writing by the local JCD Grant Program Planning Committee. Each application shall include a completed application form and a written report containing a program description, method of implementation, and a proposed budget of all projects proposed to be funded.

(8) The local juvenile court judge shall appoint a planning committee (JCD Grant Program Planning Committee) whose membership shall be representative of the community's population as required by section 219.041.3, RSMo. The JCD Grant Program Planning Committee shall consist of at least three and no more than seven members. Members may include the juvenile court judge or his/her designee, the juvenile officer or his/her designee, a representative from a local school district, or a parent of a child who has received services from the juvenile court. Other people may include the chief

court administrator, school superintendent or his/her designee, or any local or community leader that focuses on the well-being of youth and their families and is supported by their local juvenile court. The committee shall actively participate in the formulation of plans for the proper expenditure of funds and shall cooperate and assist the juvenile court judge in the implementation of these plans. Members of this committee shall receive no compensation for their service on the committee.

(9) The local JCD Grant Program Planning Committee shall submit to the director a grant application form with a written report containing a program description, method of implementation, and a proposed budget of all projects proposed to be funded. The information provided shall list—

(A) The specific services that will be provided through the use of the grant funds;

(B) The exact parameters of these services;

(C) The total amount of monies requested;

(D) The apportionment of monies for each service;

(E) The steps that will be taken to implement the program and the timeline for the full implementation of the program;

(F) The number of youth to be served;

(G) The description of the performance and the outcome measures that the grantee will use in evaluating the effectiveness of the program; and

(H) The local juvenile court programming and commitment history, including program outcomes, effective utilization of funding, and diversion history.

(10) The recipient of a grant must permit the director of DYS or his/her designee to visit and inspect each project funded by the JCD Grant Program. The recipient of a grant must account for the monies, provide performance statistics, and make the books and records of the program open to DYS or the Department of Social Services for inspection and monitoring upon request. Upon a written recommendation from DYS for needed changes or improvements in a funded project, the grant recipients shall make the necessary changes to the project. The recipient of a grant must allow DYS to monitor all functions of programs developed with JCD Grant Funds. Juvenile court staff must assist and cooperate with division staff in monitoring programs and in determining if the program is operating according to the contractual agreement negotiated between both parties.

(11) When the director determines that there are reasonable grounds to believe that a grant recipient is not in compliance with the operating standards established by this regulation, the following may occur:

(A) The director may give thirty (30) days written notice to the grant recipient that the director is terminating the grant;

(B) The director may give thirty (30) days written notice to the grant recipient that the director is suspending all or a portion of any grant subsidy payment until the required standard of operation has been met;

(C) A revocation or suspension shall have immediate effect when the director has reason to believe the grant was obtained by fraud, trick, misrepresentation, or concealment of any material fact; the grant was issued by inadvertence or mistake and the grant recipient was not qualified to receive the grant; or the grant recipient has endangered the safety of a youth;

(D) Whenever the director terminates or suspends a JCD Grant, the notice will be sent via certified mail and the JCD Grant recipient who is aggrieved by the action may request an informal, administrative review before the director or the director's designee;

(E) The JCD Grant recipient must make a written request for an administrative review within ten (10) business days of receipt of the notice of the termination or suspension. The grant recipient shall submit the grounds for error, along with any supporting documentation to

the director;

(F) The director or the director's designee may then review the request based upon the written submission or, at the request of the grantee, hold an informal meeting to discuss the grantee's concerns. The hearing shall be informal, the rules of evidence will not apply, and there is no right to subpoena witnesses;

(G) At the sole discretion of the director, the director may allow the JCD Grant recipient an opportunity to cure any deficiencies in the standard of operation of the recipient's program pending the administrative review; and

(H) DYS shall be authorized to recoup funds from the JCD Grant recipient if DYS determines, after an administrative hearing, that funds were improperly expended.

AUTHORITY: sections 219.036, 219.041, and 660.017, RSMo 2016. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Legal Services Division-Rulemaking, PO Box 1527, Jefferson City, MO 65102-1527, or by email to Rules.Comment@dss.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act**

PROPOSED RULE

15 CSR 30-130.010 Definitions

PURPOSE: This rule facilitates the administration of the Professional Employer Act in accordance with sections 285.700–285.750, RSMo. This rule provides definitions of terms in addition to those found in section 285.705, RSMo for the administration of the Act.

(1) "Business experience" (as used in the application and renewal forms) shall mean a narrative detailed description of business-related achievements, credentials, and experience of an individual. Alternatively, a resumé may be used in lieu of a narrative description if it contains, at a minimum, the following information: current contact information, relevant degree(s)/certification(s), and a five- (5-) year work history.

(2) "PEO" (as used in this rule) shall mean a professional employer organization including a PEO Group, a controlling person of a PEO, or a person offering PEO services.

(3) "Secretary" shall mean the secretary of state or his/her designee.

AUTHORITY: section 285.705, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act**

PROPOSED RULE

15 CSR 30-130.020 Applications, Interim Operating Permits, and Forms

PURPOSE: This rule provides instructions for full, limited, or group applications along with renewals. It also provides instructions for obtaining an interim operating permit pursuant to section 285.715, RSMo.

(1) Every application shall conform to the requirements within section 285.715, RSMo including evidence of business experience and an audited financial statement. The audited financial statement may not express any ongoing concerns.

(2) A professional employer organization (PEO) not registered in Missouri, must decline to provide services or notify the secretary within five (5) business days of obtaining knowledge that an existing client not based in Missouri has employees or operations in Missouri.

(A) If the PEO does not decline to provide services to the existing client, the PEO must immediately file a limited registration application if the client has less than fifty (50) employees based in Missouri.

(B) The PEO may request an interim operating permit until such application is approved. The secretary may issue an interim operating permit if—

1. The PEO is currently registered or licensed by another state;
2. The PEO makes the request for an interim operating permit in writing indicating in what other states it is licensed or registered;
3. The secretary determines it is in the best interest of the potential covered employees to grant an interim operating permit; and
4. The PEO has filed a limited registration application.

(3) Application and renewal forms may be found on the secretary's website at www.sos.mo.gov/peo.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

PROPOSED RULE

15 CSR 30-130.030 Fees

PURPOSE: This rule provides the fee structure for professional employer organization (PEO) applications and renewal.

(1) The following fees for a PEO shall apply:

- (A) Full Application - \$500.00;
- (B) Full Renewal - \$250.00;
- (C) Limited Application - \$250.00;
- (D) Limited Renewal - \$250.00;
- (E) Group Application - \$500.00, plus \$250.00 for each entity in the PEO Group;
- (F) Group Renewal - \$250.00, plus \$125.00 for each entity in the PEO Group.

AUTHORITY: section 285.725, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will cost private entities approximately three hundred thirty-seven thousand five hundred dollars (\$337,500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

**I. Department Title:
Division Title:
Chapter Title:**

Rule Number and Title:	15 CSR 30-130.030 Fees
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Full Applicants	Professional Employer Organizations	\$25,000
Limited Applicants	Professional Employer Organizations	\$18,750
Group Applicants	Professional Employer Organizations	\$175,000
Full Applicant Renewals	Professional Employer Organizations	\$12,500
Limited Applicant Renewals	Professional Employer Organizations	\$18,750
Group Applicant Renewals	Professional Employer Organizations	\$87,500

III. WORKSHEET

Each Full applicant must pay \$500
Each Limited applicant must pay \$250
Each Group applicant must pay \$500 plus \$250 for each entity in the Group
Full applicants must pay \$250 to renew their application annually
Limited applicants must pay \$250 to renew their application annually
Group applicants must pay \$250 plus \$125 for each entity in the Group to renew their application annually

IV. ASSUMPTIONS

We assume that there will initially be 50 Full applications filed.
We assume that there will initially be 75 Limited applications filed
We assume that there will initially be 100 Group applications filed

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

PROPOSED RULE

15 CSR 30-130.040 Approval of Assurance Organizations

PURPOSE: This rule addresses how an assurance organization may be approved to submit applications and renewals on behalf of their members.

(1) An applicant or registered professional employer organization (PEO) may enter into an agreement with an assurance organization approved by the secretary to act on its behalf in accomplishing the provisions of the Professional Employer Organization Act or these rules.

(2) The approval of an assurance organization by the secretary, to act on behalf of an applicant or registered PEO, does not relieve the applicant or registered PEO from the ultimate responsibility to comply with its obligations pursuant to the Act or these rules.

(3) An assurance organization desiring to become approved by the secretary shall submit to the secretary—

(A) A letter requesting approval;

(B) Evidence that the assurance organization is qualified to perform the functions on behalf of the applicant or registered PEO; and

(C) An explanation of how the assurance organization will certify each of the criteria and obligations required of the applicant or registered PEO by the Act or rule.

(4) An assurance organization's approval by the secretary shall remain in effect until such time the secretary, after written notice, terminates the approval, or until such time the assurance organization, by written notice, withdraws or terminates its status as an approved assurance organization.

(5) An assurance organization that has been approved by the secretary shall notify the secretary annually, in writing, on the anniversary of its approval date, of any material change in the assurance organization's national accreditation and financial assurances during the previous year.

(6) The secretary shall make available to the public a current list of approved assurance organizations, upon request.

(7) The secretary shall notify the assurance organization, in writing, if the secretary becomes aware of any information that indicates that the assurance organization is failing to adequately monitor or provide compliance assistance as intended by the Act.

(8) The assurance organization shall respond to the secretary within thirty (30) days of its receipt of such notification of deficiency. The secretary may terminate an assurance organization's approval based on a finding that the assurance organization is no longer in compliance.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act

PROPOSED RULE

15 CSR 30-130.050 Use of Assurance Organization by Applicant

PURPOSE: This rule sets forth the process for an applicant to use a secretary-approved assurance organization.

(1) The secretary shall accept an approved assurance organization's written certification as evidence that an applicant has met, and continues to meet, the criteria and obligations set forth in the Act and rules. The secretary retains the right to independently verify any information or certification provided by the assurance organization, including the ability to verify information contained in the assurance organization's database.

(2) An applicant using an assurance organization, proof of compliance with the assurance organization will satisfy the application requirements of section 285.715, RSMo. Additionally, renewal requirements under section 285.715, RSMo, will be waived provided that the appropriate renewal fee is paid prior to the due date.

(3) An approved assurance organization shall notify the secretary, in writing, no later than ten (10) days after it receives a complaint, or becomes aware of information indicating that an applicant or registered professional employer organization (PEO) they represent is not in compliance with its obligations under the Act.

(4) An approved assurance organization shall notify the secretary, in writing, no later than ten (10) days after it has made a determination that a registered PEO has violated any of the standards of accreditation of the assurance organization or has ceased membership with the assurance organization.

(5) In the event that a registered PEO loses its accreditation, or has ceased membership with an assurance organization, the secretary shall immediately suspend the license of the registered PEO until all necessary information for the appropriate registration sought is filed with the secretary.

(6) In the event that a registered PEO ceases its membership with an assurance organization, the secretary reserves the right to immediately require the registered PEO to submit relevant documents and information in order to comply with the application requirements of the Act.

AUTHORITY: section 285.715, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act**

PROPOSED RULE

15 CSR 30-130.060 Proof of Positive Working Capital, Bonds, and Letters

PURPOSE: This rule describes positive working capital, as well as, the posting of bonds and letters of credit.

(1) An applicant or registered professional employer organization (PEO) must demonstrate positive working capital. This must be demonstrated in the financial audit that—

(A) Was prepared in accordance with generally accepted accounting principles;

(B) Was audited by an independent certified public accountant without qualification as to the ongoing concern status of the applicant or registered PEO;

(C) Reflects positive working capital; and

(D) Is based on adequate reserves for taxes, insurance, and incurred claims that are not paid.

(2) An applicant who does not have a positive working capital may provide a bond—

(A) With a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000);

(B) Held by a lender authorized to do business in the state of Missouri and found on <https://treasurer.mo.gov/LinkedDepositProgramParticipatingInstitutions/default.aspx>;

(C) Is payable to the Missouri secretary of state; and

(D) States that the surety will provide the secretary written notice sixty (60) days prior to cancelling the bond.

(3) In the alternative, an applicant who does not have a positive working capital may provide a letter of credit with a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000) that—

(A) Is irrevocable;

(B) Is issued by a financial institution authorized to do business in the state of Missouri and which is financially responsible for the amount of the letter;

(C) Does not require examination of the performance of the underlying transaction between the secretary and the applicant;

(D) Is payable to the secretary on sight or within a reasonable period of time after presentation of all required documents; and

(E) Does not include any condition that makes payment to the secretary contingent upon the consent of, or other actions by, the applicant or other party.

AUTHORITY: section 285.725, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act**

PROPOSED RULE

15 CSR 30-130.070 Disciplinary Actions

PURPOSE: This rule describes the disciplinary action the secretary may take pursuant to section 285.750, RSMo, and the notice provided to initiate a disciplinary action.

(1) Upon a decision to take disciplinary action for violation of section 285.750, RSMo, the secretary shall mail such professional employer organization (PEO) written notice, by certified mail, at the address on file with the secretary.

(2) The secretary shall notify a PEO, in writing, by certified mail that the secretary intends to take disciplinary action. The notice shall contain the following information:

(A) The PEO's name and address;

(B) The specific allegations for the disciplinary action; and

(C) Instructions for requesting a hearing.

(3) If disciplinary action is taken against a PEO who registered through an assurance organization, the secretary may provide such notice to the assurance organization. Such notice shall constitute sufficient notice for section 285.750.3, RSMo.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 130—Professional Employer Organization Act**

PROPOSED RULE

15 CSR 30-130.080 Request for Hearing

PURPOSE: This rule prescribes how a professional employer organization (PEO) may request a hearing for any disciplinary action the

secretary intends to take.

(1) When a PEO receives a notice of disciplinary action from the secretary, the PEO may request a hearing. A request for hearing must be received by the secretary no later than thirty (30) calendar days after the PEO receives the notice of discipline. Failure to file a request for hearing within thirty (30) calendar days of receipt of said notice shall constitute waiver of a hearing.

(2) If a PEO does not request a hearing, or fails to request a hearing within thirty (30) calendar days, as outlined in section (1) above, the secretary shall still make findings pursuant to section 285.750.3, RSMo.

(3) A request for hearing must be signed by the PEO or its attorney. It must also contain the name, mailing address, and telephone number of the PEO (or the name, address, and telephone number of the PEO's attorney). The request for hearing must be mailed to the Office of the Secretary of State, PEO Registration, PO Box 1767, Jefferson City, MO 65102.

(4) A PEO may request that a hearing be conducted by telephone. If so, the PEO must include that information in its request for hearing and provide a good telephone number that the PEO will use during the hearing. The PEO is responsible for a good connection if it requests a telephone hearing, and the secretary is not responsible for any disruption caused by a poor cell phone signal. If a party or witness leaves the phone for any reason, or the connection is disconnected, all such action shall be considered voluntary, and the hearing shall proceed without such party or witness.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 130—Professional Employer Organization Act

PROPOSED RULE

15 CSR 30-130.090 Hearings

PURPOSE: This rule describes the nature and process of disciplinary hearings conducted by the secretary.

(1) All disciplinary hearings shall be governed by the administrative hearing process found in Chapter 536, RSMo.

(2) No disciplinary hearing will be held less than thirty (30) days after the secretary receives a written request for a hearing.

(3) Notice of hearing will be provided to the professional employer

organization (PEO) by certified mail and shall include the date, time, and place of the hearing.

(4) Hearings will be open to the public and notice of the hearing shall be posted pursuant to Chapter 610, RSMo.

(5) All hearings will be audio recorded unless the PEO requests the hearing be transcribed by a court reporter. If a PEO requests a court reporter, the PEO is responsible for the cost of the court reporter and all copies of the transcripts.

(6) Oral evidence shall be taken on oath or affirmation. Each party shall have the right to call and examine witnesses, introduce exhibits, and cross-examine witnesses on any relevant issue related to the disciplinary action.

(7) Each party shall provide copies of all exhibits it intends to use at the hearing to the other party and the secretary no later than five (5) working days prior to the hearing.

(8) A list of all documents and exhibits submitted at the hearing shall become part of the record and officially noted in the transcript/recording.

(9) Copies of writings, documents, and records shall be admissible without proof that the originals thereof cannot be produced if it appears by testimony or otherwise that the copy offered is a true copy of the original.

(10) The secretary or his/her representative shall present evidence first. The PEO shall then have the opportunity to present its evidence in the same manner. Each party has the right to rebut the evidence presented and present closing statements.

(11) The secretary shall issue written findings of facts and conclusions of law. Such findings shall include the violations found and the disciplinary action to be taken as authorized under section 285.750, RSMo. Such findings shall be a final adjudication of the matter.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 15—ELECTED OFFICIALS

Division 30—Secretary of State

Chapter 130—Professional Employer Organization Act

PROPOSED RULE

15 CSR 30-130.100 Appeals

PURPOSE: This rule describes how a professional employer organization (PEO) may appeal the secretary's findings that disciplinary

action should be taken against it.

(1) A PEO who receives findings of fact and conclusions of law as provided in 15 CSR 30-130.090 upholding any disciplinary action may seek judicial review as provided for in Chapter 536, RSMo.

AUTHORITY: section 285.750, RSMo Supp. 2018. Emergency rule filed Nov. 30, 2018, effective Dec. 10, 2018, expires June 7, 2019. Original rule filed Nov. 30, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Secretary of State, PO Box 1767, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 200—Insurance Solvency and Company Regulation

Chapter 19—Discount Medical Plans

PROPOSED AMENDMENT

20 CSR 200-19.060 Net Worth Requirements. The director is amending sections (1) and (2).

PURPOSE: This amendment removes unnecessary language and relaxes a regulatory restriction.

(1) *[Requirement. Each discount medical plan organization shall maintain a net worth of no less than one hundred fifty thousand dollars (\$150,000), as required by section 376.1518, RSMo.] The [N]net worth referenced in section 376.1518, RSMo shall be determined according to generally accepted accounting principles (GAAP) or the statutory statement of accounting principles (SSAP).*

(2) *[Review.] The net worth requirement is ongoing and subject to review by the director through examination. Each discount medical plan organization is required to demonstrate it meets the requirement at registration and at annual renewal.*

(A) Registration. *At the time of registration, [E]each discount medical plan organization [is required at the time of registration to] will demonstrate that it meets the net worth requirement according to GAAP or SSAP by one (1) of the following means:*

1. A report of an audit by an independent certified public accountant (CPA). Such report must include:

A. Either:*—*

(I) *[t]The statement of profit or loss, balance sheet, and statement of cash flows of the discount medical plan organization as of a date not more than twelve (12) months prior to the date of such organization's registration; or*

(II) *[t]The consolidated statement of profit or loss, balance sheet, and statement of cash flows of the discount medical plan organization and entities affiliated with the discount medical plan organization as of a date not more than twelve (12) months prior to the*

date of such organization's registration, as well as the consolidating worksheets that specifically show the account entries of the discount medical plan **organization** itself and which reconcile to such consolidated statement of profit or loss, balance sheet, and statement of cash flows; and

B. A statement by the independent CPA that recognizes without qualification the right of the director to rely on such report; or

2. A report of examination conducted by the director pursuant to sections 374.202 to 374.207 and 376.1506, RSMo, except that such examination will be conducted on the basis of GAAP or SSAP, which will review and opine on the discount medical **plan** organization's statement of profit or loss, balance sheet, and statement of cash flows as of a date not more than twelve (12) months prior to the date of such organization's registration.

(B) Renewal of Registration. *At the time of renewal, [E]each discount medical plan organization [is required at the time of renewal to] will demonstrate that it meets the net worth requirement according to GAAP or SSAP by filing a statement sworn to or affirmed by two (2) or more officers of such organization, which statement consists of the statement of profit or loss, balance sheet, and statement of cash flows of the discount medical **plan** organization as of a date not more than twelve (12) months prior to the date of such organization's renewal of registration.*

(C) Five- (5)-*[/] Year Report. At least once every five (5) years, each discount medical plan organization shall file with the director at the time of renewal, [/] a report of an audit by an independent CPA or a director's examination as provided in subsection (2)(A).*

AUTHORITY: sections 374.045 [and], 374.202 to 374.207, [RSMo 2000 and sections] 376.1506, and 376.1528, RSMo [Supp. 2007] 2016. Original rule filed Nov. 1, 2007, effective June 30, 2008. Amended: Filed Nov. 19, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Terra Sapp, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 200—Insurance Solvency and Company Regulation

Chapter 20—Captive Insurance Companies

PROPOSED AMENDMENT

20 CSR 200-20.010 Scope and Definitions. The director is amending sections (1) and (2).

PURPOSE: This amendment makes corrections to the rule and removes unnecessary language.

(1) Applicability of Rules. The rules in this chapter apply to captive insurance companies transacting business under sections 379.1300 to 379.1350, RSMo and special purpose life **reinsurance** captives

transacting business under sections 379.1353 to 379.1421, RSMo. The rules *[shall]* **are to** be read together with *[c]*Chapter 536, RSMo.

(2) Definitions.

(A) “Company,” captive insurance company or companies, including a special purpose life reinsurance captive (SPLRC)*[/]* unless otherwise specified.

(B) “Director,” the director of the department.

(C) “Department,” the *[d]*Department of *[i]*Insurance, *[f]*Financial *[i]*Institutions and *[p]*Professional *[r]*Registration.

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 379.1328, and 379.1421, RSMo [Supp. 2007] 2016. Original rule filed Nov. 15, 2007, effective June 30, 2008. Amended: Filed Nov. 19, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Terra Sapp, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 200—Insurance Solvency and Company
Regulation
Chapter 20—Captive Insurance Companies**

PROPOSED AMENDMENT

20 CSR 200-20.030 Admission. The director is amending sections (1)–(3).

PURPOSE: This amendment clarifies and simplifies the rule.

(1) Application and Fees. Application for admission as a captive insurance company *[shall]* **will** contain the information outlined in sections 379.1300 to 379.1350 or 379.1353 to 379.1421, RSMo by filing with the director~~:/~~—

(A) Initial Admission:

1. A completed Form CI-1;
2. A license fee of seven thousand five hundred dollars (\$7,500) for a company; and
3. An application fee of ten thousand dollars (\$10,000) for a special purpose life reinsurance captive~~:/~~;

(B) Renewal~~:/~~:

1. All annual reports due at the time of renewal *[as required by]* **pursuant** to sections 379.1300 to 379.1350, RSMo and rule 20 CSR 200-20.040; and
2. **An annual renewal fee of** *[S]*seven thousand five hundred dollars (\$7,500) *[annual renewal fee]*.

(2) Organizational Examination. In addition to processing of the application, an organizational investigation or examination may be performed before an applicant is admitted. Such investigation or

examination *[shall]* **may** consist of a general survey of the company’s corporate records, including charter, bylaws, and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; and a review of such other factors as the director deems necessary.

(3) Change of Business. Any change in the nature of the captive business from that stated in the company’s plan of operation filed with the director upon application requires prior approval from the director. Any change in any other information filed with the application *[must be filed with the director but does not require prior approval]* **requires only an informational filing with the director.**

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 379.1328, and 379.1421, RSMo [Supp. 2007] 2016. Original rule filed Nov. 15, 2007, effective June 30, 2008. Amended: Filed Nov. 19, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Terra Sapp, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 200—Insurance Solvency and Company
Regulation
Chapter 20—Captive Insurance Companies**

PROPOSED AMENDMENT

20 CSR 200-20.050 Management and Control. The director is amending sections (1) and (2) and deleting sections (3) and (4).

PURPOSE: This amendment clarifies and simplifies the rule by removing duplicative language.

(1) Directors. Every company shall report to the director within thirty (30) days after any change in its executive officers or directors, including in its report a statement of the business and professional affiliations of any new executive officer or director. No director, officer, or employee of a company shall, except on behalf of the company, accept, or be the beneficiary of, any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the company but such person may receive reasonable compensation for necessary services rendered to the company in his or her usual private, professional, or business capacity. Any profit or gain received by or on behalf of any person in violation of this section *[shall]* inure to and *[be]* is recoverable by the company.

(2) Conflict of Interest. In addition to the investment of funds in section (1) of this rule, each company chartered in this state is required to adopt a conflict of interest statement from officers, directors, and key employees. Such statement shall disclose that the individual has

no outside commitments, personal or otherwise, that would divert him from his duty to further the interests of the company he represents but this [shall] does not preclude such person from being a director or officer in more than one (1) insurance company. Each officer, director, and key employee shall file such disclosure with the board of directors yearly.

[(3) Insurance Managers and Intermediaries. No person shall, in or from within this state, act as an insurance manager, broker, agent, salesman, or reinsurance intermediary for captive business without the authorization of the director. Application for such authorization must be on a form prescribed by the director.]

(4) Acquisitions of Control of or Merger with Domestic Company. No person other than the issuer shall make a tender offer of or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire in the open market or otherwise, any voting security of a domestic company if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such company; and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic company without the prior written approval of the director. In considering any application for acquisition of control or merger with a domestic company, the director shall consider all of the facts and circumstances surrounding the application as well as the criteria for establishment of a company set out in this chapter.]

AUTHORITY: sections 374.045, [RSMo 2000 and sections] 379.1328, and 379.1421, RSMo [Supp. 2007] 2016. Original rule filed Nov. 15, 2007, effective June 30, 2008. Amended: Filed Nov. 19, 2018.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Terra Sapp, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 400—Life, Annuities and Health
Chapter 7—Health Maintenance Organizations**

PROPOSED RESCISSION

20 CSR 400-7.020 Changes to Documents Submitted to Obtain Original Certificate of Authority. This rule set forth the documents which were required to be submitted to the Department of Insurance prior to any changes becoming effective. This rule was promulgated pursuant to sections 354.405, 354.410, 354.425 and 354.485, RSMo.

PURPOSE: This rule is being rescinded as it is either duplicative of or in conflict with Missouri statutes.

AUTHORITY: sections 354.405, 354.410, 354.425 and 354.485, RSMo 1986. This rule was previously filed as 4 CSR 190-15.080. Original rule filed Nov. 2, 1987, effective April 11, 1988. Rescinded: Filed Nov. 19, 2018.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Department of Insurance, Financial Institutions and Professional Registration, Attention: Terra Sapp, PO Box 690, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 4—Fees Charged by the Board of Pharmacy**

PROPOSED AMENDMENT

20 CSR 2220-4.010 General Fees. The board is amending section (1) and deleting section (4).

PURPOSE: The proposed rule would decrease renewal fees for Missouri pharmacy technicians and establish fees for third-party logistic providers and drug outsourcers created by HB 1719.

(1) The following fees are established by the State Board of Pharmacy:

(H) Change of Pharmacy [or], Drug Distributor, Drug Outsourcer or Third-Party Logistics Provider Name Fee	\$ 25
(K) Change of Pharmacy [or], Drug Distributor, Drug Outsourcer, or Third-Party Logistics Provider Location Fee	\$ 175
(L) Original Pharmacy Distributor/Wholesale Drug Distributor, Drug Outsourcer, or Third-Party Logistics Provider License Fee (includes both temporary and permanent license)	\$ 300
(M) Pharmacy Distributor/Wholesale Drug Distributor/Drug Outsourcer or Third-Party Logistics Provider License Renewal Fee	\$ 450
(U) Pharmacy Technician Annual Renewal Fee	\$ 35
1. Effective from January 1, 2019 to June 1, 2019	\$ 20

[(4) To ensure compliance with section 338.070, RSMo, the following renewal fees shall be effective from January 1, 2018 to June 1, 2018:

(A) Pharmacy Technician Annual Renewal Fee	\$ 10]
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AUTHORITY: sections 338.020, 338.035, 338.040, 338.060, 338.070, 338.140, 338.185, 338.220, 338.230, 338.270, 338.280, 338.335, and 338.350, RSMo 2016. This rule originally filed as 4 CSR 220-4.010. Emergency rule filed July 15, 1981, effective Aug. 3, 1981, expired Nov. 11, 1981. Original rule filed Aug. 10, 1981, effective Nov. 12, 1981. For intervening history, please consult the *Code*

of State Regulations. Emergency amendment filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. Amended: Filed Nov. 28, 2018.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately two hundred eighty-three thousand five hundred dollars (\$283,500) in FY 19 as the result of the proposed decrease and increase revenue by thirty thousand dollars (\$30,000) biennially thereafter.

PRIVATE COST: This proposed amendment will save private entities approximately two hundred eighty-three thousand five hundred dollars (\$283,500) in FY 19 and cost private entities thirty thousand dollars (\$30,000) biennially thereafter.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this amendment in the **Missouri Register**. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Insurance, Financial Institutions and Professional Registration**
Division Title: State Board of Pharmacy
Chapter Title: Fees Charged by the Board of Pharmacy

Rule Number and Name:	20 CSR 2220-4.010- General Fees
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Fiscal Impact
State Board of Pharmacy	\$ 283,500 (<i>FY 2019 Revenue Decrease</i>)
State Board of Pharmacy	\$30,000 (<i>Biennial Increase Thereafter</i>)

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTIONS

1. The estimated licensing counts were based on FY 2018 actual pharmacy technician licensee counts and actual renewal totals. The projected revenue decrease will result in a net savings to pharmacy technicians based on decreasing the renewal fee from \$35 to \$20. Actual revenue decreases may vary based on renewal applications received.
2. Prior to August 28, 2018, Missouri law required third-party logistics providers (3PLs) and drug outsourcers to be licensed as drug distributors. Effective August 28, 2018, the names of the licenses have been changed to a separate 3PL and drug outsourcer license to be consistent with federal law. The proposed amended rule incorporates the name change and maintains the fees currently applicable to 3PLs/Drug outsourcers as drug distributors. Accordingly, no new or additional revenue is anticipated as a result of the name change. Once again, 3PLs and drug outsourcer applicants and licensees are currently required to pay the designated fees to be licensed as a drug distributor. Although no new or additional fees will be imposed, a fiscal note is being submitted to ensure full compliance with Chapter 536, RSMo.

3. The Board does not track data on the number of drug distributors that may be performing 3PL or drug outsourcer activity. Accordingly, the exact number of affected applicants/licensees is unknown. It should be noted, however, that the entities affected by the rule are currently required to be licensed by the Board as drug distributors. The amended rule simply recognizes the change in license name; No new license requirements or fees will be imposed as a result of the amendment. Actual revenue impact may vary based on applications received.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Insurance, Financial Institutions and Professional Registration
Division Title: State Board of Pharmacy
Chapter Title: Fees Charged by the Board of Pharmacy

Rule Number and Name:	20 CSR 2220-4.010- General Fees
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Fiscal Impact
State Board of Pharmacy	\$ 283,500 (FY 2019)
State Board of Pharmacy	\$30,000 (Biennial Cost Thereafter)

IV. WORKSHEET

Estimated # of Applicants/Licensees	Affected Agency	Description of Costs	Calculation of Estimates	TOTAL SAVINGS
19,900	Board of Pharmacy	Pharmacist Technician Renewal Fee	\$ 298,500 (anticipated decrease in FY 19 revenue based on a \$20 pharmacy technician renewal fee)	(\$ 298,500)
50	Board of Pharmacy	Third-Party Logistics Providers/ Drug Outsourcers New License Fee	\$ 15,000 (anticipated FY 19 revenue based on initial \$ 300 license fee x 50 applicants)	\$ 15,000
TOTAL ESTIMATED FY 19 SAVINGS				\$ 283,500

Estimated # of Applicants/Licensees	Affected Agency	Description of Costs	Calculation of Estimates	TOTAL COSTS
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25	Board of Pharmacy	Third-Party Logistics Providers/ Drug Outsourcers New License Fee	\$ 7,500 <i>(anticipated biennial revenue based on initial \$ 300 license fee x 25 applicants)</i>	\$ 7,500
50	Board of Pharmacy	Third-Party Logistics Providers/ Drug Outsourcers Renewal Fee	\$ 22,500 <i>(anticipated biennial revenue based on current \$ 450 renewal fee x 50 licensees)</i>	\$ 22,500
TOTAL ESTIMATED BIENNIAL COSTS				\$ 30,000

V. ASSUMPTIONS

1. The estimated licensing counts were based on FY 2018 actual pharmacy technician licensee counts and actual renewal totals.
2. The projected savings will result in a net savings to pharmacy technicians based on decreasing the renewal fee from \$35 to \$20. Actual savings may vary based on renewal applications received.
3. Prior to August 28, 2018, Missouri law required third-party logistics providers (3PLs) and drug outsourcers to be licensed as drug distributors. Effective August 28, 2018, the names of the licenses have been changed to a separate 3PL and drug outsourcer license to be consistent with federal law. The proposed amended rule incorporates the name change and maintains the fees currently applicable to 3PLs/Drug outsourcers as drug distributors. Accordingly, no new or additional revenue is anticipated as a result of the name change. Once again, 3PLs and drug outsourcer applicants and licensees are currently required to pay the designated fees to be licensed as a drug distributor. Although no new or additional fees will be imposed, a fiscal note is being submitted to ensure full compliance with Chapter 536, RSMo.
4. The Board does not track data on the number of drug distributors that may be performing 3PL or drug outsourcer activity. Accordingly, the exact number of affected applicants/licensees is unknown. It should be noted, however, that the entities affected by the rule are currently required to be licensed by the Board as drug distributors. The amended rule simply recognizes the change in license name; No new license requirements or fees will be imposed as a result of the amendment. Actual revenue impact may vary based on applications received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

PROPOSED RULE

20 CSR 2220-8.010 Definitions

PURPOSE: This rule adopts definitions for purposes of 20 CSR Chapter 8 governing drug outsourcers and third-party logistics providers.

(1) Definitions. The following definitions are applicable to 20 CSR 2220 Chapter 8:

(A) “Drug outsourcer” or “Drug outsourcer facility”—An entity registered with the United States Food and Drug Administration pursuant to section 503(B) of the federal Food, Drug and Cosmetic Act, as amended by the Drug Quality and Security Act (21 section USC 353b);

(B) “Drug related device”—An article that is not considered a prescription drug under federal law, but which meets the definition of a device as provided in 21 U.S.C. 321(h) and 21 U.S.C. 360j(e);

(C) “Drug” or “Prescription drug”—A legend drug as defined by section 338.330, RSMo; and

(D) “Third-party logistics provider” or “3PL”—An entity that provides or coordinates warehousing, or other logistics services of a prescription drug or drug-related device on behalf of a manufacturer, wholesale distributor, or dispenser of such a product, but does not take ownership of the product, nor has responsibility to direct the sale or disposition of the product. A third-party logistics provider license is required for entities conducting 3PL activities that are physically located in this state or shipping drug products into Missouri.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

PROPOSED RULE

20 CSR 2220-8.020 Licensing Requirements

PURPOSE: This rule establishes licensing requirements and procedures for drug outsourcers and third-party logistics providers.

(1) No person or entity may act as a third-party logistics provider (3PL) or a drug outsourcer unless the person/entity has obtained the applicable 3PL or drug outsourcer license from the board. A separate license is required for each facility owned or operated as a 3PL or drug outsourcer.

(A) Applicants must submit a completed application to the board with the applicable fee along with the following information:

1. The name, full business address, e-mail address, and telephone number of the applicant and the facility where third-party logistics provider services or drug outsourcer activities will be provided, if different;

2. All trade or business names used by the licensee;

3. For 3PL applicants, the name, address, telephone number, and e-mail address of a manager-in-charge that meets the requirements of 20 CSR 2220-8.030 along with his/her employment history for the previous seven (7) years and a notarized manager-in-charge affidavit;

4. For drug outsourcer applicants, the name, address, telephone number, and e-mail address of a pharmacist responsible for supervising the facility who holds a current and active pharmacist license issued by a U.S. state or territory. If the designated pharmacist does not have a current and active Missouri pharmacist license, official verification must be submitted from the board of pharmacy or equivalent pharmacist governmental licensing agency verifying that the designated pharmacist holds a current and active pharmacist license issued by such state/territory;

5. The type of ownership or legal structure; and

6. The name(s) of the owner, operator, or both, of the licensed entity, including:

A. If a sole proprietorship, the full name of the sole proprietor and the name of the business entity. The sole proprietor must sign the application;

B. If a partnership or limited liability partnerships, the name of each partner and the name of the partnership. A partner or general partner must sign the application; or

C. If a corporation, the name of the corporate president, vice president, secretary, treasurer, chief executive officer, board of directors, and senior vice presidents, or their equivalents, the corporate name(s), and the name of the state of incorporation. An officer of the corporation must sign the application.

(B) A license will not be issued to a facility located in Missouri until the board or its duly authorized agent has inspected the premises of the new location and approved it. For nonresident applicants, an inspection report must be submitted as required by 20 CSR 2220-8.030.

(C) All third-party logistics provider and drug outsourcer licenses will expire on the date specified by the director of the Division of Professional Registration by appropriate rule. Once issued, licenses must be conspicuously posted in the licensed facility where 3PL or drug outsourcer operations are conducted.

(D) A 3PL or drug outsourcer license will not be issued to any location where drugs are stored or maintained that is in a residence or that shares an address and/or physical space with a business not related to distributing prescription drugs or drug-related devices, or not licensed and regulated by the state of Missouri.

(E) An application will become null and void if the applicant fails to complete the process for licensure within six (6) months after the application is received by the board.

(F) All application fees are non-refundable.

(2) Change of Ownership. A third-party logistics provider or drug outsourcer license shall become void on the effective date of any change of ownership. The subsequent owners must obtain a new license from the board prior to operating as a third-party logistics provider or drug outsourcer in this state, provided a temporary license may be issued to the new ownership until a new license is

granted as outlined in section (5). Facilities located in Missouri must be inspected by the board prior to issuing a new license.

(A) A change of ownership of a sole proprietorship is deemed to have occurred when—

1. The business is sold and the sale becomes final;
2. The proprietor enters into a partnership with another individual or business entity; or
3. The proprietor dies, provided, the proprietor's estate may continue to operate the third-party logistics provider or drug outsourcer facility for a period of no more than one (1) year if all appropriate fees are paid.

(B) If a corporation owns a third-party logistics provider or drug outsourcer, a new license is not required if the owners of the stock change. If a limited liability partnership or a limited liability company owns a third-party logistics provider or drug outsourcer, a new license is not required if the partners or members of the company change, as long as the partnership or company is not dissolved by the change. Written notice must be filed with the board within thirty (30) days after a change of twenty-five percent (25%) or more in the ownership of corporation stock, or the partners of a limited liability partnership, or the members of a limited liability company. The required notification must be in writing and notarized.

(C) When a sole proprietorship, corporation, limited liability partnership, or limited liability company begins or ceases ownership of a third-party logistics provider or drug outsourcer, a new license must be obtained regardless of the relationship between the previous and subsequent owners.

(3) Change of Location. A third-party logistics provider or drug outsourcer license is only valid for the address listed on the license issued by the board. If the location of a third-party logistics provider or drug outsourcer facility changes either within the existing facility or to a new facility, a change of location application must be submitted to the board with the applicable fee. A Missouri located facility may not open for business at the new location until the board or its duly authorized agent has inspected the premises of the new location and approved it. Once approved, the board will issue a license for the new location with the same license number as the previous license. A license will remain valid if the facility address changes but not the location, in such case an amended license will be issued on request without charge.

(4) Change of Name. Licensees may only conduct 3PL or drug outsourcing activities in the state of Missouri under the name(s) licensed by the board. If a name change occurs, a change of name application must be submitted to the board with the applicable fee within three (3) business days of the change. The facility's license will be reissued under the new name with the same license number. A change of ownership application is required if the licensee is changing corporate or legal structure or otherwise changing ownership.

(5) Temporary Licenses. The board may grant a temporary license to an applicant, subject to any terms or conditions the board deems necessary or appropriate, to allow the business to continue operating in Missouri until the board makes a determination on the applicant's license application. Unless otherwise authorized by the board, temporary licenses are valid for one (1) year or until final action by the board, whichever is less.

(A) The board will consider the following in determining whether to issue a temporary license:

1. Any conduct or activity that constitutes grounds for denial or discipline under section 338.055, RSMo;
2. The applicant's compliance with state and federal drug and/or distribution laws;
3. Any failure to produce records or information requested by the board or failure to provide full and truthful information;
4. Failure to cooperate with any board request or inquiry related to the application;
5. Current or pending disciplinary action by any federal, state,

or local government against any license or registration currently or previously held by the applicant;

6. Compliance with licensing requirements under previously granted licenses, if any; and

7. Any other factor relevant to the applicant's ability to safely or properly operate in Missouri.

(B) A notification letter will be sent to the applicant once a decision is made on the applicant's permanent license. The temporary license will be considered void ten (10) days after board notification is sent to the applicant.

(C) Applicants issued a temporary license may conduct business in this state as a third-party logistics provider or, for drug outsourcer applicants, as a drug outsourcer as long as all state and federal laws governing provider/drug outsourcing activities are followed and no action that results in professional misconduct as outlined in section 338.055, RSMo, occurs.

(6) A nonresident third-party logistics provider or drug outsourcer licensed by the board must designate a registered agent in Missouri for service of process. Any licensee that does not designate a registered agent shall be deemed to have designated the Missouri secretary of state to be its true and lawful attorney for service of process in any action or proceeding against the third-party logistics provider or drug outsourcer growing out of or arising from such 3PL or drug outsourcing services. Service of process shall be accomplished as authorized by law.

(7) Licensure Exemptions. A Missouri 3PL or drug outsourcer license is not required for the following activities—

(A) The sale, purchase, transfer, or trade of a drug or an offer to sell, purchase, transfer, or trade a drug for emergency administration to an individual patient if a delay in therapy would negatively affect a patient outcome. Prior to the distribution, the unlicensed entity or proposed recipient must file a written request with the board to approve the emergency transaction. The amount sold, purchased, transferred, or traded shall not exceed one percent (1%) of the 3PL's or drug outsourcer's total gross prescription sales or, if prescriptions are not sold, one percent (1%) of the 3PL's/drug outsourcer's total drug purchases;

(B) The storage or distribution of drugs by a local, state, or federal facility that are received from the Strategic National Stockpile or the state stockpile for the purpose of providing those drugs in an emergency situation as authorized by a state or federal agency; and

(C) The sale, purchase, transfer, or trade of a prescription drug by a 3PL to alleviate a temporary shortage of a prescription drug that is in limited supply or unavailable due to delays in or interruption of supply. Drugs sold, purchased, transferred, or traded pursuant to this section shall only be sold, purchased, transferred, or traded directly from an importer or manufacturer authorized by or registered with the United States Food and Drug Administration (FDA) to import or manufacture the drug that is unavailable or in short supply. In addition, sales, purchases, transfers, or trades shall be limited to the period of shortage and to the drug that is unavailable or in limited supply. Documentation of FDA authorization or registration shall be maintained in the 3PL's records.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

PROPOSED RULE

20 CSR 2220-8.030 Nonresident Third-Party Logistics Providers/Drug Outsourcer Facilities

PURPOSE: This rule establishes additional guidelines for non-resident third-party logistics providers and drug outsourcer applicants.

(1) Nonresident third-party logistics (3PL) providers or drug outsourcer facilities may not act as a third-party logistics provider or a drug outsourcer or ship, mail, or deliver legend drugs, or for drug outsourcers, compounded drugs into Missouri without first obtaining the applicable license from the board. Nonresident third-party logistics providers or drug outsourcers may be licensed by reciprocity if they—

(A) Possess a valid 3PL or drug outsourcer license or an equivalent license that is in good standing in the state or foreign jurisdiction in which they are located that was issued pursuant to legal standards comparable to those which must be met by a Missouri third-party logistics provider or drug outsourcer; and

(B) Are located in a state or foreign jurisdiction which extends reciprocal treatment to a third-party logistics provider of this state or, for drug outsourcer applicants, a drug outsourcer of this state.

(2) Except as otherwise provided in this rule, applicants for a non-resident third-party logistics provider or drug outsourcer license must comply with 20 CSR 2220-8.020, including, but not limited to, all application, change of ownership, change of location, and change of name requirements. In addition to the requirements of 20 CSR 2220-8.020, non-resident applicants must also submit the following with their application:

(A) A copy of the applicant's 3PL or drug outsourcer license or its equivalent from the state or foreign jurisdiction where the nonresident third-party logistics provider or drug outsourcer facility is located;

(B) An official verification from the state or foreign jurisdiction where the third-party logistics provider or drug outsourcer facility is located verifying that the applicant holds a current and active third-party logistics provider license or its equivalent, for drug outsourcer applicants, a drug outsourcer license or its equivalent issued by such state or foreign jurisdiction;

(C) A copy of the applicant's most recent inspection report or findings from the applicant's resident board of pharmacy or its equivalent state/foreign regulatory body. For 3PL applicants, the inspection must have occurred within the last twenty-four (24) months. For drug outsourcer applicants, the inspection must have occurred within the last eighteen (18) months. If a state inspection is unavailable, an inspection by the Missouri Board of Pharmacy, the United States Food and Drug Administration (FDA) or the National Association of State Boards of Pharmacy must be submitted or a similar inspection by an entity approved by the board;

(D) If controlled substances will be shipped into Missouri, a copy of the applicant's federal controlled substance registration and, if applicable, a copy of the applicant's state controlled substance registration from the state where the applicant is located; and

(E) If requested by the board, any inspection reports, correction active responses, warning notices, deficiency notices, or any other related state, federal, or foreign jurisdiction report or notice related to the applicant's handling, distribution, manufacturing, or sale of medication.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

PROPOSED RULE

20 CSR 2220-8.040 Standards of Operation (Drug Outsourcers)

PURPOSE: This rule provides standards of operation for drug outsourcers licensed by the board.

(1) Drug outsourcers shall comply with all applicable state and federal laws governing drug outsourcing activities, including, but not limited to, controlled substance laws and the federal Food, Drug and Cosmetics Act, as amended by the Drug Quality and Security Act.

(A) Except as otherwise required by federal law, drug outsourcers must comply with all applicable current good manufacturing practices (cGMPs) required by federal law and the United States Food and Drug Administration.

(B) A separate Missouri drug distributor license is required if a drug outsourcer is engaged in any additional drug distribution activities as defined by Chapter 338, RSMo, other than drug outsourcing. A pharmacy license is required if medication will be dispensed pursuant to a patient-specific prescription.

(2) No drug outsourcer license will be issued unless the facility is under the direct supervision of a pharmacist who has been designated with the board and who will be responsible for facility operations and ensuring compliance with state and federal law. The pharmacist must hold a current and active pharmacist license issued by Missouri or another U.S. state/territory.

(A) Drug outsourcing activities must be conducted at all times

under the supervision of the designated pharmacist. The pharmacist must be actively involved in and aware of the daily operations of the outsourcing facility and must ensure that policies and procedures governing drug outsourcing operations are current and accurate.

(B) In the event the pharmacist designated with the board to supervise the facility changes, the drug outsourcer may not continue operations until a new pharmacist is named to supervise the facility. A change of pharmacist application must be submitted to the board with the applicable fee within fifteen (15) calendar days after a new pharmacist is designated to supervise.

(3) Sterile compounding and drug outsourcing activities must be safely and accurately performed at all times to ensure that only drugs of appropriate quality are distributed. No counterfeit, misbranded, expired, or adulterated drug may be compounded, distributed, sold, or brokered by or on behalf of a drug outsourcer.

(A) All individuals employed or engaged in sterile compounding or drug outsourcer activities must have sufficient education, training, or experience to perform the duties assigned. A list must be maintained of all individuals engaged in sterile compounding or in drug outsourcer activities with a description of the individual's duties.

(B) Drug outsourcers located in this state may only purchase or receive legend drugs and/or drug related devices from an entity licensed as a Missouri drug distributor, third-party logistics provider, drug outsourcer, or pharmacy.

(C) Medication held for distribution must be stored in a secure area where only authorized personnel have access to them. A list of all individuals who have independent access to drug storage areas must be maintained. The list must be maintained for three (3) years and must be readily retrievable on request of the board or the board's authorized designee.

(D) The outside shipping container of received medication and product ingredients must be visually examined for identity and for container and content integrity to prevent the acceptance or distribution of any contaminated, adulterated, or otherwise unfit medication. Any prescription drug or drug ingredient whose immediate or sealed outer container or sealed secondary container has been opened, used, or improperly compromised must be quarantined and physically separated from the facility's active inventory.

(E) Medication shipped for distribution or further use must be carefully inspected prior to shipping/distribution for identity and to ensure no contaminated, adulterated, or misbranded drug or compounded preparation is distributed. Licensees shall maintain and follow security procedures for delivering drugs and compounded preparations from the facility to the destination site.

(F) Drug outsourcers must develop and implement written policies and procedures to ensure the safe and appropriate delivery of prescription drugs within the temperature requirements recommended by the manufacturer or the *United States Pharmacopeia* (USP).

(G) For returned medication, licensees must consider the conditions under which the drug has been held, stored, or shipped, the condition of the drug and its container/carton and any other relevant factor that may reflect on the drug's fitness for further use or distribution. If the conditions under which medication has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug must be destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity.

(H) Drug products must be labeled as required by the manufacturer and state and federal law, including, section 338.059.2, RSMo.

(4) Facility Standards. The following standards are applicable to all drug outsourcing facilities:

(A) Drug outsourcing facilities must be securely maintained at all times to prevent unauthorized access to the facility, drugs, or drug storage areas. Additionally, the facility must be equipped with a security system that will provide suitable protection against theft and diversion, including, electronic theft or diversion. All facilities must

be equipped with an alarm system to detect unauthorized entry after hours.

(B) Appropriate sewage disposal and a hot and cold water supply must be available.

(C) Waste and hazardous materials must be handled and disposed of in compliance with applicable state and federal law.

(D) Drug outsourcing facilities must be free from insects, vermin, and animals of any kind, except for service animals as defined by the Americans with Disabilities Act (ADA).

(E) Medication must be properly stored and maintained in a thermostatically controlled area within temperature and humidity requirements as provided in the FDA approved drug product labeling or the *United States Pharmacopeia* (USP).

(F) Temperatures in drug storage areas must be recorded and reviewed at least once each day the facility is in operation. Alternatively, a continuous temperature monitoring system may be used if the system maintains ongoing documentation of temperature recordings that alerts the pharmacist designated with the board for supervising the facility or alerts designated facility staff when temperatures are outside of the required range.

(G) No outdated, misbranded, or adulterated drugs or devices may be dispensed or maintained within the facility's active inventory, including prescription and related nonprescription items. Outdated, misbranded, or adulterated medication must be quarantined in a clearly identified segregated area and maintained separately from drugs intended for distribution or compounding.

(H) Medication may not be stored on the floor. Drug products must be raised above floor level and placed on a pallet or similar device.

(I) Drug outsourcers must report any recall of medication or a sterile preparation that is, or suspected to be, misbranded, adulterated, or non-sterile. Recalls must be reported to the board in writing within seven (7) days of a recall.

(5) Policies and Procedures. Drug outsourcers must maintain and follow current and accurate policies and procedures governing all aspects of the facility's drug outsourcing activities. Policies and procedures may be physically or electronically maintained at the facility, provided the policies/procedures are immediately retrievable at the request of the board or the board's authorized designee.

(6) Record-Keeping. Drug outsourcer records must be accurately maintained in compliance with state and federal law. Additionally, licensees must maintain inventories and records of all transactions regarding the receipt, distribution, compounding, or other disposition of prescription drugs or sterile preparations. Unless otherwise provided by law, records required by Chapter 338 or this rule must be maintained for three (3) years. Records may be manually or electronically maintained, provided the record is readily retrievable and available for inspection, photographing, or duplication at the request of the board or the board authorized designee or at the request of authorized federal, state, or local law enforcement officials. Records maintained offsite and not electronically retrievable at the drug outsourcer facility must be made available for inspection within two (2) working days of a request by the board or an authorized board designee.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2220—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

PROPOSED RULE

20 CSR 2220-8.045 Standards of Operation (Third-Party Logistics Providers)

PURPOSE: This rule provides standards of operation for third-party logistic providers licensed by the board.

(1) Third-party logistics providers (3PL) shall comply with all applicable state and federal law governing 3PL activities, controlled substances and drug distribution/handling, including, but not limited to, the federal Food, Drug and Cosmetics Act, as amended by the federal Drug Supply Chain Security Act (20 USC section 351 et seq).

(2) Manager-In-Charge. No third-party logistics provider license will be issued unless the facility is under the direct supervision of a manager-in-charge who has been designated with the board and who will be responsible for facility operations and ensuring compliance with state and federal law. The designated manager-in-charge must have appropriate education or experience to perform the duties assigned. At a minimum, the manager-in-charge must have at least two (2) years of education/experience in third-party logistics provider or drug distribution standards of operation or legal/compliance requirements. Education beyond a high school diploma or its equivalent may be used to meet these minimum requirements.

(A) 3PL activities must be conducted under the supervision of the designated manager-in-charge. The manager-in-charge must be actively involved and aware of the daily operations of the third-party logistics provider and must be physically present at the third-party logistics provider facility during normal business hours, except for absences due to illness, scheduled vacations, or other authorized absence. The manager-in-charge must ensure that policies and procedures governing the third-party logistics provider's operations are current and accurate.

(B) In the event the manager-in-charge designated with the board changes, the third-party logistics provider may not continue operations until a new manager-in-charge is named. A change of manager-in-charge application must be submitted to the board with the applicable fee within fifteen (15) calendar days after the new manager-in-charge is designated.

(C) In addition to the manager-in-charge, all individuals employed or engaged in third-party logistics operations must have sufficient education, training, or experience to perform the duties assigned. A list must be maintained of all managers or other individuals in charge of 3PL activities or drug distribution, storage and handling, and a description of the individual's duties.

(3) Facility Standards. The following requirements are applicable to all 3PL facilities:

(A) All state and federal 3PL, controlled substance and drug dis-

tribution licenses or registrations must be current and accurate. The facility's Missouri 3PL license must be conspicuously posted at the 3PL facility licensed by the board;

(B) 3PL facilities must be of suitable size and construction to allow proper cleaning, maintenance, and facility operations. Appropriate sewage disposal and a hot and cold water supply must be available. The outside perimeter of the premises must be well-lit; and

(C) 3PL facilities must be securely maintained at all times to prevent unauthorized access to the facility, drugs, or drug storage areas. Additionally, 3PL facilities must be equipped with a security system that will provide suitable protection against theft and diversion, including, electronic theft or diversion. All facilities must be equipped with an alarm system to detect entry after hours.

(4) Drug Storage and Distribution. 3PL activities must be safely and accurately performed at all times in compliance with applicable state and federal law. Only drugs of appropriate quality may be distributed. No counterfeit, outdated, misbranded, expired, or adulterated drug may be distributed, sold, or brokered by or on behalf of a 3PL.

(A) Appropriate lighting, sanitation, ventilation, and humidity must be maintained in all areas where drugs are stored or distributed. Aisles, walkways, and shelves in drug storage areas must be clear of debris, dirt, and filth. Dust must be kept at low levels through adequate ventilation or proper cleaning procedures.

(B) Waste and hazardous materials must be handled and disposed of in compliance with applicable state and federal law.

(C) Drug storage areas must be free from insects, vermin, and animals of any kind, except for service animals as defined by the Americans with Disabilities Act (ADA).

(D) Drugs must be properly stored and maintained in a thermostatically controlled area within temperature and humidity requirements as provided in the FDA approved drug product labeling or the *United States Pharmacopeia* (USP).

(E) Temperatures in drug storage areas must be recorded and reviewed at least once each day the facility is in operation. Alternatively, a continuous temperature monitoring system may be used if the system maintains ongoing documentation of temperature recordings that alerts the manager-in-charge or designated facility staff when temperatures are outside of the required range.

(F) 3PLs located in this state may only purchase or receive legend drugs and/or drug related devices from an entity licensed as a Missouri drug distributor, third-party logistics provider, or drug outsourcer.

(G) No outdated, misbranded, or adulterated drugs or devices may be dispensed or maintained within the facility's active inventory, including prescription and related nonprescription items. Outdated, misbranded, or adulterated medication must be quarantined in a clearly identified segregated area and maintained separately from drugs intended for distribution or being processed for distribution.

(H) No third-party logistics provider with physical facilities located in the state of Missouri shall knowingly purchase or receive legend drugs and/or drug related devices from a wholesale drug distributor, third-party logistics provider, drug outsourcer, or pharmacy not licensed or registered by the board.

(I) Drugs held for distribution must be stored in a secure area where only authorized personnel have access to them. A list of all individuals who have independent access to drug storage areas must be maintained. The list must be maintained for three (3) years and must be readily retrievable on request of the board or the board's authorized designee.

(J) Medication may not be stored on the floor. Drug products must be raised above floor level and placed on a pallet or similar device.

(K) The outside shipping container of received medication must be visually examined for identity and for container and content integrity to prevent the acceptance or distribution of any contaminated, adulterated, or otherwise unfit medication. Any prescription drug whose immediate or sealed outer container or sealed secondary container has been opened, used, or improperly compromised must be quarantined

and physically separated from the facility's active inventory.

(L) Drugs shipped for distribution or further use must be carefully inspected prior to shipping/distribution for identity and to ensure prescription drugs that have been damaged in storage or held under improper conditions are not distributed. Licensees shall maintain and follow security procedures for delivering drugs from the facility to the destination site.

(M) Drug products must be labeled as required by the manufacturer and state and federal law, including, section 338.059.2, RSMo.

(N) Third-party logistics providers must develop and implement written policies and procedures to ensure the safe and appropriate delivery of prescription drugs within the temperature requirements recommended by the manufacturer or the *United States Pharmacopeia* (USP).

(O) For returned medication, licensees must consider the conditions under which the medication has been held, stored, or shipped, the condition of the drug and its container/carton and any other relevant factor that may reflect on the drug's fitness for further use or distribution. If the conditions under which a prescription drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug must be destroyed or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity.

(P) Licensees shall file a written or electronic report with the board within seventy-two (72) hours after discovery of:

1. Any suspected criminal activity related to or diversion of a prescription drug or device; and

2. Any real or suspected counterfeit, contraband, or illegitimate prescription drug or drug-related device. The report must include the name of the drug, quantity, and lot number(s). Recalls initiated by the Food and Drug Administration (FDA) or by a supplier licensed with the state of Missouri do not have to be reported, unless otherwise required by state and federal law.

(5) Policies and Procedures. 3PLs must maintain and follow current and accurate policies and procedures governing all aspects of the facility's 3PL activities. Policies and procedures must be physically or electronically maintained at the facility, provided the policies/procedures are immediately retrievable at the request of the board or the board's authorized designee.

(6) Agents or employees of a licensed third-party logistics provider may have legend drugs in their custody if they are acting in the usual course of business or employment and their names and addresses and the addresses of all sites where drugs are stored have been provided to the board. Drugs stored and transported by agents or employees of a third-party logistics provider must be maintained in accordance with manufacturer or USP guidelines and must be free of contamination, deterioration, or adulteration.

(7) Record-Keeping. 3PL records must be accurately maintained in compliance with state and federal law. Additionally, licensees must maintain inventories and records of all transactions regarding the receipt, distribution, or other disposition of prescription drugs or prescription drug-related devices.

(A) The following records must be maintained:

1. The date drugs or drug-related devices are received or distributed;

2. The identity and quantity of drugs or drug-related devices received, distributed, or disposed of;

3. The identity of any suppliers of prescription drugs or drug-related items, including the name and principal address of the seller/transferor and the address of the location where the drug/drug-related item was shipped from;

4. The name and address of any recipients of prescription drugs or drug-related items; and

5. Any records required by state and federal law.

(B) Unless otherwise provided by law, records required by Chapter

338 or this rule must be maintained for three (3) years. Records may be manually or electronically maintained, provided the record is readily retrievable and available for inspection, photographing, or duplication at the request of the board or the board's authorized designee or at the request of authorized federal, state, or local law enforcement officials. Records maintained offsite and not electronically retrievable at the 3PL facility must be made available for inspection within two (2) working days of a request by the board or an authorized board designee.

(8) Exemptions. At its discretion, the board may grant an exemption to the facility requirements of this rule for a time period designated by the board if such exemption is not contrary to law and the exemption will provide equal or greater protection of the public safety, health, or welfare. Exemption requests must be submitted in writing and identify the specific exemption requested, the grounds for exemption, the requested exemption length, and proposed procedures or safeguards for protecting the public safety, health, or welfare if the exemption is approved.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Emergency rule filed Nov. 28, 2018, effective Dec. 8, 2018, expires June 5, 2019. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2220—State Board of Pharmacy Chapter 8—Third-Party Logistic Providers and Drug Outsourcer Facilities

PROPOSED RULE

20 CSR 2220-8.050 Inspection Exemptions

PURPOSE: This rule defines requirements for inspection standards for drug outsourcers and third-party logistics providers and standards for inspection exemptions for third-party logistic providers.

(1) Board inspections of third-party logistics providers and drug outsourcers will be conducted in accordance with Chapter 338, RSMo. At the discretion of the board, a third-party logistics provider facility that has been inspected by the United States Food and Drug Administration (FDA) within the previous two (2) years may be exempt from inspection by the board if the FDA inspection(s) resulted in a satisfactory rating. The FDA inspection must be a full inspection of all facility operations and procedures.

(2) The board may terminate an exemption under this section if

deemed necessary or appropriate, if the last full FDA inspection is two (2) years old or greater or if any subsequent facility inspection by a state or federal entity results in less than a satisfactory rating.

(A) For purposes of this rule, a less than satisfactory rating includes, but is not limited to, any documented deficiency related to third-party logistic provider operations, drug distribution, repackaging, labeling, quality control, environmental policies/procedures, or controlled substances. Deficiencies include any statement that is a part of a federal compliance, inspection or observational report with or without sanctions, penalties, fines, or discipline imposed.

(B) Licensees granted an inspection exemption under this section shall notify the board if any inspection conducted by the FDA or the Drug Enforcement Administration results in less than a satisfactory rating as defined in subsection (2)(A).

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 222—State Board of Pharmacy
Chapter 8—Third-Party Logistic Providers and Drug
Outsourcer Facilities**

PROPOSED RULE

20 CSR 2220-8.060 Termination of Business

PURPOSE: This rule establishes guidelines for terminating business as a third-party logistics provider or drug outsourcer.

(1) A licensed third-party logistics provider or drug outsourcer must notify the board within fifteen (15) days after terminating business in Missouri. Notification must be in writing or on a form provided by the board and include the following information:

(A) The name, address, license number, and effective date of closure;

(B) The name, address, and license number of the entity to which any of the stock/inventory will be transferred; and

(C) The name and address of the location where records required to be maintained by law will be transferred.

(2) Licensees terminating business may transfer all drugs and records in accordance with the following:

(A) Misbranded, outdated, or adulterated drugs may not be transferred, except for purposes of proper disposal;

(B) The entity's Missouri license must be returned to the board either in person or by registered or certified mail; and

(C) Any records transferred to an unlicensed location must be

retrievable for board review within seven (7) working days of a request made by an authorized official of the board.

(3) This rule does not preempt any other laws or regulations governing third-party logistic (3PL) or drug outsourcer licensure, change of ownership, change of location, or change of name.

AUTHORITY: sections 338.140, 338.150, 338.280, and 338.350, RSMo 2016, and sections 338.315, 338.330, 338.333, 338.337, and 338.340, RSMo Supp. 2018. Original rule filed Nov. 28, 2018.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri State Board of Pharmacy, PO Box 625, 3605 Missouri Boulevard, Jefferson City, MO 65102, by facsimile at (573) 526-3464, or via email at pharmacy@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2245—Real Estate Appraisers
Chapter 5—Fees**

PROPOSED AMENDMENT

20 CSR 2245-5.020 Application, Certificate and License Fees. The committee is adding new sections (3) and (4), renumbering as necessary, and amending asterisked paragraphs.

PURPOSE: This amendment changes the payment schedule for federal fees.

(3) The commission will collect the fees outlined in 20 CSR 2245-5.020(2)(B)1. and (F) yearly. The commission will send notification to the licensed AMCs in January of each year which outlines the reporting period and instructions for the collection of said fees.

(4) Fees shall be remitted and received by the office no later than the date specified on the notice to ensure that the commission is able to include the AMC on the national registry submission sent to the Appraisal Subcommittee. Failure to receive said fees by the date specified on the notice will not guarantee the submission of the AMC on the national registry.

/(3)/(5) All fees are nonrefundable.

* For those AMC's that meet the federal definition of AMC as defined in 12 U.S.C. 3350(11): an additional \$25 multiplied by the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction during the [previous two (2) years] reporting period shall be remitted.

**Appraisal management companies that are owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813 and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal

Deposit Insurance Corporation are to remit a check made payable to the Appraisal Subcommittee *[by June 30th of even numbered year]* **no later than the date specified on the notice.** The amount to be remitted shall be determined by multiplying the number of appraisers who have performed an appraisal for the AMC in connection with a covered transaction by twenty-five dollars (\$25) for each *[of the previous two (2) years]* **reporting period.**

AUTHORITY: sections 339.509, 339.513, and 339.525.4, RSMo 2016. This rule originally filed as 4 CSR 245-5.020. Emergency rule filed Dec. 6, 1990, effective Dec. 16, 1990, expired April 14, 1991. Emergency rule filed April 4, 1991, effective April 14, 1991, expired Aug. 11, 1991. Original rule filed Jan. 3, 1991, effective April 29, 1991. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Nov. 28, 2018.

PUBLIC COST: This proposed amendment will increase revenue for the Appraisal Subcommittee of the Federal Financial Institutions Examination Council by three hundred seventy-five thousand dollars (\$375,000) annually for the life of the rule. The Real Estate Appraisers Commission will not be affected by this proposed amendment.

PRIVATE COST: This proposed amendment will cost private entities three hundred seventy-five thousand dollars (\$375,000) annually for the life of the rule. It is anticipated that the costs will recur for the life of the rule, may vary with inflation and are expected to increase at the rate projected by the Legislative Oversight Committee.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Real Estate Appraisers Commission, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at reacom@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

PUBLIC FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration
Division 2245 - Missouri Real Estate Appraisers Commission
Chapter 5 - Fees
Proposed Rule - 20 CSR 2245-5.020 Application, Certificate and License Fees

II. SUMMARY OF FISCAL IMPACT

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Annual Increase in Revenue
Appraisal Subcommittee of the Federal Financial Institutions Examination Council	\$375,000

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 - Department of Insurance, Financial Institutions and Professional Registration

Division 2245 - Missouri Real Estate Appraisers Commission

Chapter 5 - Fees

Proposed Rule - 20 CSR 2245-5.020 Application, Certificate and License Fees

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the rule by affected entities:
2,499	Federal AMC Covered Transactions Estimate: 2499 appraisers each on 6 AMC panels (2499 appraisers x 6 AMCs = \$14,994 x \$25 national registry fee = 374,850	\$ 374,850
1	Appraisal Subcommittee Fee Estimate: 1 appraiser on 6 AMC panels (1 appraiser x 6 AMCs = 6 x \$25 Appraisal Subcommittee Fee = \$150	\$ 150
Estimated Annual Cost of Compliance for the Life of the Rule		\$ 375,000

III. WORKSHEET

See table above.

IV. ASSUMPTION

1. The above figures are based on the number of licensed appraisers divided by the number of licensed appraisal management company panels.
2. The Federal AMC covered transactions and Appraisal Subcommittee fees are pass through fees determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC). The commission does not establish or retain the fees.
3. It is anticipated that the total cost will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety-(90-) day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 1—Director's Office Chapter 3—Consolidation of Permit Processing

ORDER OF RULEMAKING

By the authority vested in the Department of Natural Resources under section 640.010, RSMo 2016, the department amends a rule as follows:

10 CSR 1-3.010 Consolidation of Permit Processing is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on August 1, 2018 (43 MoReg 2039). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation

Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-2.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1266–1270). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received twenty-one (21) comments from five (5) sources: the Boeing Company, the U.S. Environmental Protection Agency (EPA), Missouri Coalition for the Environment (MCE), Missouri Petroleum Markets & Convenience Store Association (MPCA), and the Petroleum Storage Tank Insurance Fund (PSTIF).

COMMENT #1: The Boeing Company commented that the title of rule 10 CSR 10-2.260 should be revised to "Control of Emissions During Petroleum Liquid Storage, Loading, and Transfer" to be consistent with the proposed St. Louis sister rule 10 CSR 10-5.220.

RESPONSE AND EXPLANATION OF CHANGE: The department amended the rule's title as suggested. The amended title more accurately describes the rule's purpose.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: The EPA commented that the department is revising this rule applicable in the Kansas City area (Clay, Jackson, and Platte Counties), and a similar rule 10 CSR 5.220, applicable in St. Louis (St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties). For increased clarity to the public, EPA recommends that the department make similar revisions to both rules.

RESPONSE AND EXPLANATION OF CHANGE: The department intends to match rules 10 CSR 10-2.260 and 10 CSR 10-5.220 as much as possible. We revised subparagraphs (3)(C)2.B. and C. to remove the terms "static pressure tested" and "bench tested." We added references to test methods in subsections (5)(D) and (E) to

minimize confusion and still retain the intended meaning.

COMMENT #4: The EPA commented that the rule text includes the insertion of several definitions. However, one (1) of the new definitions (gasoline dispensing facility) is different than what is provided in the state's 10 CSR 10-6.020 Definitions and Common Reference Tables. For clarity, EPA recommends that these definitions match. If definitions are purposefully different, then EPA recommends that the department explain which definition supersedes.

RESPONSE: The department moved definitions specific to the rule back into the rule text to reduce confusion and amended definitions as needed during the proposed rulemaking. A list of those definitions is found in section (2). Changes to 10 CSR 10-6.020 are also being made to remove rule specific definitions. No changes were made to the rule text as a result of this comment.

COMMENT #5: The EPA commented that there are two (2) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-2.260. As a result of this comment, no changes were made to the rule text.

COMMENT #6: The EPA commented that there are several references in this rule to various sections of 10 CSR 10-6.040 Reference Methods that do not currently exist in 10 CSR 10-6.040. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.040 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.040 Reference Methods and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-2.260. As a result of this comment, no changes were made to the rule text.

COMMENT #7: The EPA commented that the rule text proposes to change the general provisions for gasoline loading to apply to "distribution facilities" instead of "loading installations." The department did not provide a definition for "distribution facility" and the term "loading installation" is only provided in the definition of the term "Stage I vapor recovery system"; without the definitions of "distribution facility" and "loading installation" it is unclear if there is a change in applicability. Also, the department did not provide information on how many facilities are affected by this change. If there is a real change in applicability, the department will need to submit a demonstration ensuring that the department's SIP submission meets the requirements of section 110(l) and 193 of the Clean Air Act (CAA), also known as the "anti-backsliding" provisions.

RESPONSE: The department defines terms specific to this rule in section (2). As a result of other comments regarding definitions, the department added and/or amended proposed definitions. The department is not changing the applicability of the rule. No changes were made to the rule text as a result of this comment.

COMMENT #8: The EPA commented that the rule text proposes to change the applicability of this rule in paragraph (3)(C)1. from tanks that are greater than five hundred (500) gallons to tanks that are greater than five hundred fifty (550) gallons. Because of the change in applicability, the department will need to submit a demonstration ensuring that the department's SIP meets the requirements of section 110(l) and 193 of the CAA.

RESPONSE: The reason for the change is because the department has learned that most tanks built in the proposed affected range are already built to comply with the requirements in paragraph (3)(C)1.

while tanks less than five hundred fifty (550) gallons generally would need to be modified to comply which is increased burden to the regulated community to retrofit these tanks. The department is changing the current affected storage tank size of two hundred fifty (250) gallons in paragraph (3)(C)1. to five hundred fifty (550) gallons to be consistent with the proposed language in 10 CSR 10-5.220. Historically, the St. Louis ozone non-attainment area has higher concentrations of ozone than the Kansas City area. Having the Kansas City rule stricter than the St. Louis rule therefore is not consistent with the ozone concentrations in the two (2) cities. The modification to 10 CSR 10-2.260 makes the two (2) rules consistent and reduces burden on the regulatory community. No changes were made to the rule text as a result of this comment.

COMMENT #9: The EPA commented that the rule text in part (3)(C)1.C.(III), proposes to add the ability for an equivalent pressure/vacuum valve to be used as approved by the staff director. The department should add information to the rule explaining how the staff director will determine equivalency of the pressure/vacuum valve.

RESPONSE: While EPA recommends that the department add information to the rule explaining how the staff director will determine equivalency of the pressure/vacuum valve, the department does not plan to change the language at this time. The language provides for the staff director to approve a pressure/vacuum valve that is equivalent to that certified by the California Air Resources Board (CARB). This equivalent language is adequate for the smaller size tanks covered under this paragraph and is protective of air quality. Adding specific test method requirements such as EPA recommends would not be consistent with how larger tank components are addressed in paragraphs (3)(C)2. and (3)(C)3. No changes were made to the rule text as a result of this comment.

COMMENT #10: The EPA commented that, in subparagraph (3)(C)2.B. and (3)(C)2.C. of the proposed rule the department has decreased the frequency of a testing requirement. In subparagraph (3)(C)2.B the frequency to test Stage I vapor recovery systems for static pressure was increased from every five (5) years to six (6) years. In subparagraph (3)(C)2.C. the frequency to bench test the pressure/vacuum valves pressure was increased from every two (2) years to three (3) years. Because of these changes, the department will need to submit a demonstration ensuring that the department's SIP submission meets the requirements of section 110(l) and 193 of the CAA.

RESPONSE: The department is changing the frequency of testing to allow facilities to perform their testing on the same schedule or cycle. Testing on a two (2) and five (5) year schedule does not allow for coordinated testing and is an unnecessary burden to facilities. Changing to three (3) and six (6) year schedules allows for testing to fall on common years. Changing the testing frequency by one (1) year is not expected to result in increased emissions or have negative effects on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #11: The EPA encourages the department to consider adding 40 CFR 60, Appendix A instead of adding a reference to 10 CSR 10-6.030(22) in subparagraph (3)(E)1.B. and subsection (5)(B) of this rule. The subparagraph and subsection already specify which test methods to use (Method 21 and Method 25, respectively) while the proposed rule text language for the potential revisions to 10 CSR 10-6.030, adding section (22), incorporates 40 CFR 60 in its entirety by reference. The EPA recommends, if the department intends to continue to incorporate requirements of the Code of Federal Regulations (CFR) by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1-6, where stack testing methods or guidance documents are mentioned more than once, a

reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

COMMENT #12: The EPA encourages the department to assess the need for adding an incorporation by reference of 40 CFR 63, in its entirety, in subsection (5)(A) of this rule because the section already specifies that determinations of “compliance with subparagraph (3)(D)1.A. shall be performed according to 40 CFR 63.425(e).” Incorporation by reference should be specific and the incorporation of reference of 40 CFR 63 in its entirety provides no additional clarity than what is already specified in the subsection.

RESPONSE AND EXPLANATION OF CHANGE: The department amended the incorporation by reference in subsection (5)(A) to be more specific to 40 CFR 63.425(e).

COMMENT #13: The MCE commented to not change this Code of State Regulation.

RESPONSE: This rulemaking benefits the regulated community by removing obsolete provisions, reducing the burden on low throughput facilities, improving consistency with the St. Louis rule 10 CSR 10-5.220 that regulates the same types of facilities, and clarifying rule language on testing and other items. No changes were made to the rule text as a result of this comment.

COMMENT #14: The MPCA supports elimination of all reference to the Missouri Performance Evaluation Testing Procedures (MOPETP). They expressed appreciation for the ongoing dialogue the department has maintained with MPCA members and other interested parties.

RESPONSE: The proposed rulemaking removed specific reference to MOPETP and included necessary MOPETP provisions in the rule requirements. No additional rule text changes are necessary as a result of this comment.

COMMENT #15: The MPCA commented that the current requirement specifying use of a pressure/vacuum valve certified by the CARB at three inches (3") wcp and eight inches (8") wcv does not work in the real world, and owners who meet this requirement are often then forced into non-compliance with the department's underground storage tank (UST) rules, as the valves cause their automatic tank gauges to malfunction. They do not oppose the requirement that valves have a three inches (3") wcp feature to prevent emission of volatile hydrocarbons during fuel delivery, but the vacuum requirement is problematic. They requested that, once a particular device has been demonstrated to the department's satisfaction that it has a collection efficiency of at least ninety-eight percent (98%), the rule should authorize the director of the department's Air Pollution Control Program to approve the device one time, after which any UST owner/operator could use that device and be in compliance with the rule.

RESPONSE: The department is aware of the problem of excessive tank vacuum and proposed a change in the wording during the proposed rulemaking. The department revised part (3)(C)1.C.(III) to include language that would allow the director to approve a pressure/vacuum valve and expanded the pressure specifications from the current rule. No changes were made to the rule text as a result of this comment.

COMMENT #16: The MPCA requested adding language to explicitly state that the owner/operator need not wait for department inspectors to be present to conduct tests after repairs.

RESPONSE AND EXPLANATION OF CHANGE: The department amended subparagraphs (3)(C)2.B. and C. as part of this proposed rulemaking stating that the department is to be notified prior to the test to allow an observer to be present, but it did not make it clear that the department is not required to be present to observe the test. The department added rule text to make it clear that the department

does not need to be present to observe the test.

COMMENT #17: The PSTIF supports changing the specifications for p/v valves from three inches (3") wcp and eight inches (8") wcv to “positive pressure setting of two and one-half to six inches (2.5–6”) of water and negative pressure setting of six to ten inches (6.0–10.0”) of water.” This will allow tank owners access to a broader range of equipment options and hopefully will allow them to more easily comply with both this rule and the department's UST rules.

RESPONSE: The proposed rulemaking changed the valve specification to allow facilities more options and reduce burden. No additional rule text changes are necessary as a result of this comment.

COMMENT #18: The PSTIF supports the proposed changes aimed at clarifying that bulk plants with low throughput are exempt from certain requirements of the rule. However, putting a definition of “Gasoline Distribution Facility” within the definition of “Gasoline Dispensing Facility” seems awkward; further, please note it is not “the facility” that “transfers, loads,” etc. PSTIF made the following comments related to these changes: 1) As an alternative, since the terms “bulk plant” and “bulk terminal” are defined in the rule, perhaps a definition of “Gasoline Distribution Facility” should be included in the Definitions section; a suggested definition is: “A bulk terminal, bulk plant, pipeline terminal, or marine terminal.”, 2) A different option would be to define “Gasoline Distribution Facility” without using the words “bulk plant” or “bulk terminal” and remove those two (2) terms from the Definitions section of the rule., and 3) Either way, the department may want to consider retitling subsection (3)(B) to “Loading at Gasoline Distribution Facilities” and retitling subsection (3)(C) to “Gasoline Transfer at GDFs.”

RESPONSE AND EXPLANATION OF CHANGE: The department amended the definition of gasoline dispensing facility, added a definition for gasoline distribution facility, and deleted the definitions of bulk plant and bulk terminal to minimize confusion in section (2). As a result of this comment, the department reviewed all section (2) definitions and removed the definition of vapor tight as it is not used in the rule. The section (2) definitions were renumbered as a result of the deletions and addition. We retained the subsection title at (3)(B), but amended the subsection title at (3)(C) to clarify intent and match the titles in 10 CSR 10-5.220.

COMMENT #19: The PSTIF commented that the definition for “ullage” seems awkward; perhaps something like the following may be clearer: “The volume of the free space above the liquid in a gasoline tank.”

RESPONSE AND EXPLANATION OF CHANGE: The department amended the definition of ullage from what was in the proposed rulemaking to a definition that more accurately reflects the usage of the term in the rule.

COMMENT #20: The PSTIF supports the rule's exemption for tanks between two hundred fifty (250) and five hundred fifty (550) gallons.

RESPONSE: The department changed the tank exemption size to reduce the burden on facilities. Refer back to the department's response to comment #8 for more details. No changes were made to the rule text as a result of this comment.

COMMENT #21: The PSTIF commented that it appears the testing references in subsections (5)(D) and (5)(E) may be reversed.

RESPONSE AND EXPLANATION OF CHANGE: The department appreciates PSTIF bringing this to our attention and has corrected the rule references as a result of this comment.

10 CSR 10-2.260 Control of Emissions During Petroleum Liquid Storage, Loading, and Transfer

(2) Definitions.

(A) CARB—California Air Resources Board.

(B) Cargo tank—A delivery tank truck or railcar which is loading gasoline or which has loaded gasoline on the immediately previous load.

(C) Condensate (hydrocarbons)—A hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature or pressure, or both, and remains liquid at standard conditions.

(D) Crude oil—A naturally occurring mixture consisting of hydrocarbons and sulfur, nitrogen, or oxygen derivatives of hydrocarbons (or a combination of these derivatives), which is a liquid at standard conditions.

(E) Custody transfer—The transfer of produced crude oil or condensate, or both, after processing or treating, or both, in the producing operations, from storage tanks or automatic transfer facilities to pipelines, or any other forms of transportation.

(F) Delivery vessel—A tank truck, trailer, or railroad tank car.

(G) Department—Missouri Department of Natural Resources.

(H) External floating roof—A storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by petroleum liquid being contained and is equipped with a closure seal(s) to close the space between the roof edge and tank wall.

(I) Gasoline—A petroleum liquid having a Reid vapor pressure four pounds (4 lbs) per square inch or greater.

(J) Gasoline dispensing facility (GDF)—Any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle and is not—

1. A gasoline distribution facility; or

2. A manufacturer of new motor vehicles performing initial fueling operations dispensing gasoline into newly assembled motor vehicles equipped with onboard refueling vapor recovery (ORVR) at an automobile assembly plant while the vehicle is still being assembled on the assembly line.

(K) Gasoline distribution facility—Any facility that receives gasoline by pipeline, ship or barge, or cargo tank and subsequently loads the gasoline into gasoline delivery vessels for transport to gasoline dispensing facilities.

(L) Lower explosive limit (LEL)—The lower limit of flammability of a gas or vapor at ordinary ambient temperatures expressed in percent of the gas or vapor in air by volume.

(M) Monthly throughput—The total volume of gasoline that is loaded into all gasoline storage tanks during a month, as calculated on a rolling thirty (30)-day average.

(N) Onboard refueling vapor recovery (ORVR)—A system on motor vehicles designed to recover hydrocarbon vapors that escape during refueling.

(O) Petroleum liquid—Petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery with the exception of Numbers 2-6 fuel oils meeting ASTM D396-17 requirements as specified in 10 CSR 10-6.040(12), gas turbine fuel oils Number 2-GT-4-GT meeting ASTM D2880-15 requirements as specified in 10 CSR 10-6.040(20), and diesel fuel oils Number 2-D and 4-D meeting ASTM D975-17 requirements as specified in 10 CSR 10-6.040(14).

(P) Staff director—Director of the Air Pollution Control Program of the Department of Natural Resources, or a designated representative.

(Q) Stage I vapor recovery system—A system used to capture the gasoline vapors that would otherwise be emitted when gasoline is transferred from a loading installation to a delivery vessel or from a delivery vessel to a storage tank.

(R) Submerged fill pipe—Any fill pipe the discharge opening of which is entirely submerged when the liquid level is six inches (6") above the bottom of the tank. When applied to a tank that is loaded from the side, any fill pipe, the discharge opening of which is entirely submerged when the liquid level is eighteen inches (18") or twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(S) True vapor pressure—The equilibrium partial pressure exerted

by a petroleum liquid as determined in American Petroleum Institute, Manual of Petroleum Measurement Standards, Chapter 19.2, Evaporative Loss From Floating-Roof Tanks, 2012, as published by the American Petroleum Institute. Copies can be obtained from the API Publishing Services, 1220 L Street, Washington, DC 20005. This rule does not incorporate any subsequent amendments or additions.

(T) Ullage—Volume of a container not occupied by liquid.

(U) Vapor recovery system—A vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing the hydrocarbon vapors and gases so as to limit their emission to the atmosphere.

(V) Waxy, heavy pour crude oil—A crude oil with a pour point of fifty degrees Fahrenheit (50 °F) or higher compliant with ASTM D97-12 requirements as specified in 10 CSR 10-6.040(10).

(W) Definitions of certain terms specified in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(C) Gasoline Transfer at GDFs.

1. No owner or operator of a gasoline storage tank or delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a gasoline storage tank with a capacity greater than five hundred fifty (550) gallons unless—

A. The storage tank is equipped with a submerged fill pipe extending unrestricted to within six inches (6") of the bottom of the tank, and not touching the bottom of the tank, or the storage tank is equipped with a system that allows a bottom fill condition;

B. All storage tank caps and fittings are vapor-tight when gasoline transfer is not taking place; and

C. Each storage tank is vented via a conduit that is—

(I) At least two inches (2") inside diameter;

(II) At least twelve feet (12') in height above grade; and

(III) Equipped with a pressure/vacuum valve that is CARB certified or equivalent as approved by the staff director. The pressure specifications for the pressure/vacuum valves shall be a positive pressure setting of two and one-half to six inches (2.5–6") of water and a negative pressure setting of six to ten inches (6.0–10.0") of water.

2. Stationary storage tanks with a capacity greater than two thousand (2,000) gallons shall also be equipped with a Stage I vapor recovery system in addition to the requirements of paragraph (3)(C)1. of this rule and the delivery vessels to these tanks shall be in compliance with subsection (3)(D) of this rule.

A. The vapor recovery system shall collect no less than ninety percent (90%) by volume of the vapors displaced from the stationary storage tank during gasoline transfer and shall return the vapors via a vapor-tight return line to the delivery vessel. After the effective date of this rule, all coaxial systems shall be equipped with poppeted fittings.

B. At the time of installation and every six (6) years thereafter, each Stage I vapor recovery system shall be tested according to subsection (5)(E) of this rule. The department must be notified at least seven (7) days prior to the test date to allow an observer to be present. It is not required for the department to be present to observe the test. The test results must be submitted to the staff director within fourteen (14) days of test completion. Each system has to be capable of meeting the static pressure performance requirement of the following equation:

$$P_f = 2e^{-760.490/v}$$

Where:

P_f = Minimum allowable final pressure, inches of water.

v = Total ullage affected by the test, gallons.

e = Dimensionless constant equal to approximately 2.718.

2 = The initial pressure, inches water.

C. Pressure/vacuum valves shall be tested according to subsection (5)(D) of this rule at the time of installation and every three (3) years thereafter. The department must be notified at least seven (7) days prior to the test date to allow an observer the opportunity to be present. It is not required for the department to be present to observe the test. The test results must be submitted to the staff director within fourteen (14) days of test completion. The pressure specifications for pressure vacuum valves must be a positive pressure setting of two and one-half to six inches (2.5–6") of water and a negative pressure setting of six to ten inches (6–10") of water. The leak rate of each pressure/vacuum valve shall not exceed four tenths (0.40) cubic foot per hour at a pressure of two inches (2.0") of water and four tenths (0.40) cubic foot per hour at a vacuum of four inches (4.0") of water.

D. A delivery vessel shall be refilled only at installations complying with the provisions of subsection (3)(B) of this rule.

E. This subsection shall not be construed to prohibit safety valves or other devices required by governmental regulations.

3. No owner or operator of a gasoline delivery vessel shall cause or permit the transfer of gasoline from a delivery vessel into a storage tank with a capacity greater than two thousand (2,000) gallons unless—

A. The owner or operator employs one (1) vapor line per product line during the transfer. The staff director may approve other delivery systems upon submittal to the department of test data demonstrating compliance with subparagraph (3)(C)2.A. of this rule;

B. Each vapor hose is no less than three inches (3") inside diameter;

C. Each product hose is less than or equal to four inches (4") inside diameter; and

D. Any component of the vapor recovery system that is not preventing vapor emissions as designed is repaired.

4. The owner or operator of a vapor recovery system subject to subsection (3)(C) of this rule shall maintain records of inspection reports, enforcement documents, gasoline deliveries, routine and unscheduled maintenance, repairs, and all results of tests conducted. Unless otherwise specified in this rule, records have to be kept for two (2) years and made available to the staff director within five (5) business days of a request.

5. The provisions of paragraph (3)(C)2. of this rule do not apply to transfers made to storage tanks equipped with floating roofs or their equivalent.

6. The provisions of paragraphs (3)(C) 1.–4. of this rule do not apply to stationary storage tanks having a capacity less than or equal to two thousand (2,000) gallons used exclusively for the fueling of implements of agriculture or were installed prior to June 12, 1986.

(5) Test Methods.

(A) Testing procedures to determine compliance with subparagraph (3)(D)1.A. shall be performed according to 40 CFR 63.425(e), Subpart R. 40 CFR 63.425(e), Subpart R, promulgated as of June 30, 2018 is hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

(D) Testing procedures to determine compliance with subparagraph (3)(C)2.C. of this rule shall be conducted using California Air Resources Board Vapor Recovery Test Procedure TP-201.1E—Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, adopted October 8, 2003, or by any method determined by the staff director. Test Procedure TP-201.1E is hereby incorporated by reference in this rule, as published by the California Air Resources Board. Copies can be obtained from the California Air Resources Board, PO Box 2815, Sacramento, CA 95812. This rule does not incorporate any subsequent amendments or additions.

(E) Testing procedures to determine compliance with subparagraph (3)(C)2.B. of this rule shall be conducted using California Air

Resources Board Vapor Recovery Test Procedure TP-201.3—Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended March 17, 1999, or by any method determined by the staff director. Test Procedure TP-201.3 is hereby incorporated by reference in this rule, as published by the California Air Resources Board. Copies can be obtained from the California Air Resources Board, PO Box 2815, Sacramento, CA 95812. This rule does not incorporate any subsequent amendments or additions.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 2—Air Quality Standards and Air Pollution Control Rules Specific to the Kansas City Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-2.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1270–1272). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received four (4) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 stating the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: There is a reference in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030

was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-2.300. No changes were made to the rule text as a result of this comment.

COMMENT #3: Where the department is introducing a definition not previously used, EPA recommends that the department use already codified definitions found in the *Code of Federal Regulations* (CFR) or in the SIP where available. For example, the department is proposing to define “Paints, varnishes, lacquers, enamels, and other allied surface coating manufacturing facility” at subsection (2)(F), but has not previously defined this term in its 10 CSR 10-2.300 Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Operations regulation or its 10 CSR 10-6.020 Definitions and Common Reference Tables regulation. The EPA recommends that the department use the definitions for “Paints and allied products manufacturing” and “Paints and allied products manufacturing process” provided at 40 CFR Part 63 Subpart CCCCCC-National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise section (2) to include definitions consistent with those found in the CFR.

COMMENT #4: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in section (5) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the CFR by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. No changes were made to the rule text as a result of this comment.

10 CSR 10-2.300 Control of Emissions From the Manufacturing of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products

(2) Definitions.

(F) Paints and allied products—Materials such as paints, inks, adhesives, stains, varnishes, shellacs, putties, sealers, caulks, and other coatings from raw materials that are intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives.

(G) Paints, varnishes, lacquers, enamels, and other allied surface coating products manufacturing—the production of paints and allied products, the intended use of which is to leave a dried film of solid material on a substrate. Typically, the manufacturing processes that produce these materials are described by Standard Industry Classification (SIC) codes 285 or 289 and North American Industry Classification System (NAICS) codes 3255 and 3259 and are produced by physical means, such as blending and mixing, as opposed to chemical synthesis means, such as reactions and distillation. Paints, varnishes, lacquers, enamels, and other allied surface coating products manufacturing does not include:

1. The manufacture of products that do not leave a dried film of solid material on the substrate, such as thinners, paint removers, brush cleaners, and mold release agents;
2. The manufacture of electroplated and electroless metal films;
3. The manufacture of raw materials, such as resins, pigments, and solvents used in the production of paints and coatings; and
4. Activities by end users of paints or allied products to ready

those materials for application.

(H) Potential to emit—The emission rates of any pollutant at maximum design capacity. Annual potential shall be based on the maximum annual-rated capacity of the facility assuming continuous year-round operation. Federally enforceable permit conditions on the type of materials combusted or processed, operating rates, hours of operation, and the application of air pollution control equipment shall be used in determining the annual potential. Secondary emissions do not count in determining annual potential.

(I) Volatile organic compound (VOC)—See definition in 10 CSR 10-6.020.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 10—Air Conservation Commission Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-5.500 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1272–1277). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources’ Air Pollution Control Program received ten (10) comments on this rulemaking: one (1) from Trinity Consultants and nine (9) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: Trinity Consultants commented that they would like to see the recordkeeping requirements for sites with tanks less than forty thousand (40,000) gallons eliminated from this rule. Requiring recordkeeping for sites with tanks less than forty thousand (40,000) gallons is burdensome and unnecessarily restrictive since these sites are not subject to other requirements in this rule.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment and because the recordkeeping requirement does not have an effect on air quality, the department plans to remove the recordkeeping requirements for tanks less than forty thousand (40,000) gallons from subsection (4)(E).

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)), describes how section 193 applies to

Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: The EPA commented that the rule text includes the insertion of several definitions. However, the definition for “Reid vapor pressure” is different than what is provided in the state’s 10 CSR 10-6.020 Definitions and Common Reference Tables. For clarity, EPA recommends that these definitions match. If definitions are purposefully different, then EPA recommends that the department explain which definition applies to the rule.

RESPONSE: Since specific definitions are proposed within the rule and the reference to 10 CSR 10-6.020 is proposed for removal at the same time, it is unnecessary to explain that similar terms defined elsewhere do not apply. No changes were made to the rule text as a result of this comment.

COMMENT #4: Additionally, EPA commented that the definition of “Reid vapor pressure” in subsection (2)(S) refers to “an appropriate test method” found in section (5) of the rule. The definition of “Reid vapor pressure” at 40 CFR 60.111(a) reads, “Reid vapor pressure is the absolute vapor pressure of volatile crude oil and nonviscous petroleum liquids, except liquified petroleum gases, as determined by American Society for Testing and Materials (ASTM) D323-82 or 94 (incorporated by reference - see 60.17).” The public may not be aware of how to appropriately determine “Reid vapor pressure” because the ASTM method is excluded from subsection (2)(S) and section (5).

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise the definition of “Reid vapor pressure” to specify the appropriate test method for determining Reid vapor pressure.

COMMENT #5: Where the department is introducing a definition not previously used (i.e., “Closed vent system,” “Maximum true vapor pressure” and “Vapor mounted seal”) EPA recommends that the department use already codified definitions found in the Code of Federal Regulations (CFR) or in the SIP where available.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise the definitions of “closed vent system,” “maximum true vapor pressure,” and “vapor-mounted seal” to match definitions found in the CFR. In addition, the department plans to add the definition of “rim seal” as it is used in the definition of “vapor-mounted seal,” and revise the subparagraph lettering in section (2).

COMMENT #6: There are three (3) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.500. No changes were made to the rule text as a result of this comment.

COMMENT #7: There are several references in this rule to various sections of 10 CSR 10-6.040 Reference Methods that do not currently exist in 10 CSR 10-6.040. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.040

was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.040 Reference Methods and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.500. No changes were made to the rule text as a result of this comment.

COMMENT #8: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in subparagraphs (3)(A)3.A., (3)(A)3.B, and paragraph(4)(C)3. of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the CFR by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

COMMENT #9: The EPA recommends that the department reconsider its deletion of subsection (4)(E) that specifies that “the owner or operator shall maintain records of tank cleaning operations to document the date when control devices are required.” There doesn’t appear to be a replacement for the language in the proposed revision text and without it the subsection, the record keeping requirement is wholly removed.

RESPONSE: The purpose of subsection (4)(E) was to document the date in which existing sources were required to install control devices. Since the March 15, 2004 deadline has passed, all affected sources must now have control devices installed and it is no longer necessary to document this information. No changes were made to the rule text as a result of this comment.

COMMENT #10: In section (5) Test Methods, the department is proposing to replace the combination of EPA’s Methods 1, 2, 18, 21, 22, 25, 25A/B and the ASTM’s D323-94, D4953, D5190 and D5191 with the combination of the American Petroleum Institute’s Manual of Measurement Standards, Chapter 19.2 for Evaporative Loss from External Floating-Roof Tanks and the ASTM’s methods D323-15a, D2879-10, D4953-15, and D5191-15. However, EPA does not believe that the proposed new methods would be ‘equivalent’ to EPA’s Methods 1, 2, 18, 21, 22, 25, 25A/B. It is possible that the ASTM’s methods D323-15a, D2879-10, D4953-15, and D5191-15 might be adequate replacements for ASTM D323-94, D4953, D5190 and D5191 in their prior rule, but that would require a side-by-side review of the method versions that was not included with the Rulemaking Report. As such, EPA recommends that the department and EPA work together to ensure that the proposed changes would be protective of the NAAQS prior to the rule revision changes being sent to EPA as a SIP revision.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to revise section (5) to include EPA’s Methods 1, 2, 18, 21, 22, 25, 25A, and 25B ASTM’s D323-94, D4953, and D5191. ASTM D5190 will not be included since this test method has been withdrawn.

10 CSR 10-5.500 Control of Emissions From Volatile Organic Liquid Storage

(2) Definitions.

(B) Closed vent system—A system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission point to a control device.

(D) Control device—An enclosed combustion device, vapor recovery system, or flare.

(E) Control equipment—Any equipment that reduces the quantity

of a pollutant that is emitted to the air. The device may destroy or secure the pollutant for subsequent recovery. Includes, but is not limited to, incinerators, carbon adsorbers, and condensers.

(F) Department—The Missouri Department of Natural Resources, which includes the director thereof, or the person or division or program within the department delegated the authority to render the decision, order, determination, finding, or other action that is subject to review by the commission.

(N) Maximum true vapor pressure—The equilibrium partial pressure exerted by the volatile organic compounds in the stored volatile organic liquid (VOL) at the temperature equal to the highest calendar-month average of the VOL storage temperature for VOLs stored above or below the ambient temperature or at the local maximum monthly average temperature as reported by the National Weather Service for VOLs stored at the ambient temperature, as determined:

1. In accordance with methods described in American Petroleum Institute Bulletin 2517, *Evaporation Loss From External Floating Roof Tanks* (incorporated by reference in section (5));

2. As obtained from standard reference texts;

3. As determined by ASTM D2879-83, 96, or 97 (incorporated by reference in section (5));

4. Any other method approved by the director.

(S) Reid vapor pressure—The absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquified petroleum gases, as determined by ASTM D323-82 or 94 (incorporated by reference in section (5)).

(T) Rim seal—A device attached to the rim of a floating roof deck that spans the annular space between the deck and the wall of the storage vessel. When a floating roof has only one (1) such device, it is a primary seal; when there are two (2) seals (one (1) mounted above the other), the lower seal is the primary seal and the upper seal is the secondary seal.

(U) Standard conditions—A gas temperature of seventy degrees Fahrenheit (70 °F) and a gas pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute (psia).

(V) Storage vessel—Any tank, reservoir, or container used for the storage of volatile organic liquids, but does not include:

1. Frames, housing, auxiliary supports, or other components that are not directly involved in the containment of liquids or vapors; or

2. Subsurface caverns or porous rock reservoirs.

(W) Vapor-mounted seal—A rim seal designed not to be in contact with the stored liquid. Vapor-mounted seals may include, but are not limited to, resilient seals and flexible wiper seals.

(X) Vapor Recovery system—An individual unit or series of material recovery units, such as absorbers, condensers, and carbon adsorbers, used for recovering volatile organic compounds.

(Y) Volatile organic compound (VOC)—See definition in 10 CSR 10-6.020.

(Z) Volatile organic liquid (VOL)—Any substance which is a liquid at storage conditions containing one (1) or more volatile organic compounds.

(4) Reporting and Record Keeping.

(E) The owner or operator of each storage vessel specified in section (1) of this rule shall maintain readily accessible records of the dimensions of the storage vessel and an analysis of the capacity of the storage vessel.

(5) Test Methods.

(A) American Petroleum Institute (API) Bulletin 2517, *Evaporation Loss From External Floating Roof Tanks*, Second Edition, as published by API, February 1980. This publication is hereby incorporated by reference in this rule. Copies can be obtained from API, 1220 L Street NW, Washington, DC 20005. This rule does not incorporate any subsequent amendments or additions.

(B) The following documents are published by the American Society for Testing and Materials (ASTM) and incorporated by ref-

erence in this rule. Copies can be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions—

1. ASTM D323-82 or 94 *Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)*;

2. ASTM D2879-83, 96, or 97 *Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope*;

3. ASTM D4953 *Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)*; and

4. ASTM D5191 *Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)*.

(C) The following test methods are incorporated as specified in 10 CSR 10-6.030(22):

1. Test Methods 1 and 2 (40 CFR 60, Appendix A) for determining flow rates, as necessary;

2. Test Method 18 (40 CFR 60, Appendix A) for determining gaseous organic compound emissions by gas chromatography;

3. Test Method 21 (40 CFR 60, Appendix A) for determination of volatile organic compound leaks;

4. Test Method 22 (40 CFR 60, Appendix A) for visual determination of fugitive emissions from material sources and smoke emissions from flares;

5. Test Method 25 (40 CFR 60, Appendix A) for determining total gaseous nonmethane organic emissions as carbon;

6. Test Methods 25A or 25B (40 CFR 60, Appendix A) for determining total gaseous organic concentrations using flame ionization or nondispersive infrared analysis; and

7. Test method described in 40 CFR 60.113(a)(ii) for measurement of storage tank seal gap;

(D) Other method approved by the director.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission

Chapter 5—Air Quality Standards and Air Pollution

Control Rules Specific to the St. Louis Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-5.530 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1277-1282). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received seven (7) comments on this rule. Six (6) comments on this rulemaking were from the U.S. Environmental Protection Agency (EPA) and one (1) comment from department staff.

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any

area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: The proposed rule text is changing the applicability of the rule, at subsection (l)(B), from applying to all wood furniture manufacturing installations that have the potential to emit equal to or greater than twenty-five (25) tons per year (tpy) of volatile organic compounds (VOC) to applying to only those “existing” sources that have the potential to emit equal to or greater than twenty-five (25) tpy of VOCs. The proposed rule revision does not provide a date threshold for the public to determine when a source would be considered an “existing” source versus when it would be considered a “new” source. Additionally, because of the change of applicability, the department would need to provide a demonstration ensuring that the SIP revision would not interfere with attainment of the NAAQS.

RESPONSE: The purpose of this rule is to limit the VOC emissions from wood furniture manufacturing operations by incorporating reasonably available control technology (RACT) for one (1) source in the St. Louis nonattainment area. Adding the word “existing” to the applicability is simply a clarification. The word “existing” is in the title of the rule, and the department reiterates that RACT rules were intended to apply to existing major sources in nonattainment areas present at the time of the rule’s promulgation. The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA section 110(l) requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

Due to similar concerns expressed in the following two (2) comments, one (1) response that addresses these concerns is at the end of these two (2) comments.

COMMENT #3: A potential way for the department to demonstrate that the SIP revision would not interfere with attainment of the NAAQS might be provide explanation of how its SIP-approved Prevention of Significant Deterioration (PSD) program would ensure that the start-up of a new source or modification of an existing source would be controlled in an equivalent manner as would be required by the rescinded rule.

COMMENT #4: If in the event the start-up of a new source or modification to an existing source would not be applicable under PSD but would otherwise be an applicable source under the rescinded rule, the department should provide a demonstration of the potential emissions from such sources and make a determination about the source’s potential impact on air quality.

RESPONSE: To address EPA’s concern about limiting VOC emissions from a new source, the department reiterates that RACT rules were intended to apply to existing major sources in nonattainment

areas present at the time of the rule’s promulgation. Any new sources or major modifications of existing sources would not be subject to this RACT rule and instead would be subject to new source review (NSR) permitting and current applicable state or federal rules.

The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA section 110(l) requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #5: There are two (2) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.530. No changes were made to the rule text as a result of this comment.

COMMENT #6: The EPA encourages the department to consider adding 40 CFR 60, Appendix A instead of adding a reference to 10 CSR 10-6.030(22) in section (5) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the *Code of Federal Regulations* by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and, for all air rules found in 10 CSR 10-Chapters 1–6 where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. No changes were made to the rule text as a result of this comment.

COMMENT #7: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subsection (5)(C). The proposed amendment would modify the language of that requirement from “shall” to “have to.” Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word “shall” in order to clarify the obligation for facilities.

10 CSR 10-5.530 Control of Volatile Organic Compound Emissions From Wood Furniture Manufacturing Operations

(5) Test Methods.

(C) Owners or operators using a control system shall demonstrate initial compliance using the following 40 CFR 60 methods as incorporated by reference in 10 CSR 10-6.030(22).

1. The VOC concentration of gaseous air streams shall be determined with a test consisting of three (3) separate runs, each lasting a minimum of thirty (30) minutes using one (1) of the following reference methods:

- A. Method 18;
- B. Method 25;
- C. Method 25A.

2. Sample and velocity traverses shall be determined by using one (1) of the following reference methods:

- A. Method 1; or
- B. Method 1A.

3. Velocity and volumetric flow rates shall be determined by using one (1) of the following reference methods:

- A. Method 2; or
 - B. Method 2A;
 - C. Method 2C;
 - D. Method 2D;
 - E. Method 2F;
 - F. Method 2G; or
 - G. Method 2H.
- 4. To analyze the exhaust gases, use Method 3.
 - 5. To measure the moisture in the stack gas, use Method 4.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan Area

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-5.540 Control of Emissions From Batch Process Operations is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1282-1286). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(1): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)), describes how section 193 applies to Kansas City - an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: There are five (5) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this

SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-5.540. As a result of this comment, no changes were made to the rule text.

COMMENT #3: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in paragraphs (3)(C)1., (3)(C)2., (3)(C)3., and (3)(C)4., and subsections (5)(C) and (5)(F) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the Code of Federal Regulations by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1-6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1287-1293). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received two (2) comments on this rulemaking: one (1) from The Boeing Company and one (1) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The Boeing Company commented, in proposed subsection (3)(A), the incorporation by reference as of July 1, 2018 makes the additional phrase ". . .and *Federal Register* notice 83 FR 10628, promulgated on March 12, 2018" superfluous. The March 12, 2018 *Federal Register* notice changes are included in the *Code of Federal Regulations* dated July 1, 2018. The purpose statement should also be aligned to state the incorporation dates from January 1, 2013 through June 29, 2018 (rather than March 12, 2018).

RESPONSE AND EXPLANATION OF CHANGE: Thank you for bringing this to our attention. As a result of this comment the department plans to remove the references to *Federal Register* notices in paragraph (3)(A)1.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(1): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable

requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

10 CSR 10-6.070 New Source Performance Regulations

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 60, promulgated as of July 1, 2018, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the U.S. Environmental Protection Agency (EPA);

B. Sections 60.4, 60.9, and 60.10 of subpart A;

C. Subpart B;

D. Subpart AAA;

E. Subpart QQQQ; and

F. Incinerators subject to Hazardous Waste Management Commission rule 40 CFR 264, subpart O, as incorporated in 10 CSR 25-7.264, are not subject to this rule. The sources exempted in 40 CFR 264.340(b), as incorporated in 10 CSR 25-7.264, are subject to this rule. All other applicable requirements of Division 25 remain in effect.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.075 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1293-1301). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources’ Air Pollution Control Program received two (2) comments on this rulemaking: one (1) from The Boeing Company

and one (1) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The Boeing Company commented, in subsection (3)(A) incorporation by reference, the incorporation of the *Code of Federal Regulations* as of July 1, 2018 makes the references to 82 FR 45193, 82 FR 47328, 82 FR 48156, 82 FR 49513, and 83 FR 3986 promulgated between July 1, 2017 and January 29, 2018 superfluous. These latter *Federal Register* rules are included in the July 1, 2018 *Code of Federal Regulations* that is being adopted by reference.

RESPONSE AND EXPLANATION OF CHANGE: Thank you for bringing this to our attention. As a result of this comment the department plans to remove the references to *Federal Register* notices in paragraph (3)(A)1.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

10 CSR 10-6.075 Maximum Achievable Control Technology Regulations

(3) General Provisions.

(A) Incorporations by Reference.

1. The provisions of 40 CFR 63, promulgated as of July 1, 2018, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions.

2. Exceptions to paragraph (3)(A)1. of this rule are—

A. Those provisions which are not delegable by the United States Environmental Protection Agency (EPA); and

B. Sections 63.13 and 63.15(a)(2) of subpart A.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as

follows:

10 CSR 10-6.080 Emission Standards for Hazardous Air Pollutants is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1301-1303). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received two (2) comments on this rulemaking: one (1) from The Boeing Company and one (1) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The Boeing Company commented, the purpose statement states that federal rule changes from Jan. 1, 2016 to July 1, 2017 are being adopted by reference, but the rule text at (3)(A)1. incorporates *Code of Federal Regulations* changes as of July 1, 2018. To be consistent with the rule, the purpose statement should state that federal changes from Jan. 1, 2016 through June 30, 2018 are being adopted.

RESPONSE: Thank you for bringing this to our attention. The July 1, 2018 date is correct, and no rule changes were made as a result of this comment.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as

follows:

10 CSR 10-6.120 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1303-1304). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment each from two (2) sources: the Doe Run Resource Recycling Facility and the U.S. Environmental Protection Agency (EPA).

COMMENT #1: Doe Run Resource Recycling Facility commented that paragraph (3)(B)1. applies the Secondary Lead Smelting Maximum Achievable Control Technology (MACT) new source limit of 0.000087 gr/dscf to the Doe Run Resource Recycling Facility's Main Stack. Instead the existing source limit of 0.00043 gr/dscf should be applied.

RESPONSE AND EXPLANATION OF CHANGE: The department intends to remove the reference to the Secondary Lead Smelting MACT emission limit from the rule in subsection (3)(B). Removing this emission limit does not remove Doe Run Resource Recycling Facility's requirement to meet the MACT standard, as they are required under 10 CSR 10-6.075 to meet that standard as well. The department has discussed this action with both Doe Run Resource Recycling Facility and EPA, and all concur that removing the MACT standard from the rule is acceptable. The department, by taking this action, will also be able to submit the entire rule for inclusion in the State Implementation Plan (SIP).

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring SIP revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: There are two (2) references in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-6.120. As a result of this comment, no changes were made to the rule text.

COMMENT #4: The EPA encourages the department to consider adding “40 CFR Part 60, Appendix A” instead of adding a reference to 10 CSR 10-6.030(22) in subsections (5)(B) and (5)(C) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the *Code of Federal Regulations* by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and, for all air rules found in 10 CSR 10-Chapters 1–6 where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

10 CSR 10-6.120 Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations

(3) General Provisions.

(B) Provisions Pertaining to Limitations of Lead Emissions from Specific Installations. Doe Run Resource Recycling Division in Boss, Missouri, shall limit total lead production to one hundred seventy-five thousand (175,000) tons per year.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.161 Commercial and Industrial Solid Waste Incinerators is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1312–1313). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources’ Air Pollution Control Program received three (3) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA section 111(d) plan requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: The EPA encourages the department to assess the need for adding a reference to 10 CSR 10-6.030(22) in section (3), subparagraphs (3)(K)1.A., (3)(K)1.B., (3)(K)1.C., paragraphs (3)(K)2., (3)(K)3., and section (4), because the draft rule text language for the potential revisions to 10 CSR 10-6.030 Sampling Methods, adds section (22) that incorporates 40 CFR Part 60 in its entirety by reference.

RESPONSE: The department appreciates this comment and, for all air rules found in 10 CSR 10 Chapters 1–6 where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

COMMENT #3: The EPA recommends, if the department intends to continue to incorporate requirements of the *Code of Federal Regulations* by reference, that the incorporations be very specific. Because the title of 10 CSR 10-6.161 is Commercial and Industrial Solid Waste Incinerators, EPA recommends that the department consider incorporating by reference only the related requirements of 40 CFR Part 60, Subpart DDDD into the Missouri Air Conservation Commission rule.

RESPONSE: The department is being very specific in the incorporations by reference in this rule and is also revising the incorporations by reference in the 10 CSR 10-6.030 rule to be more specific as a result of comments received on that proposed rulemaking. As a result of this comment, no changes were made to the rule text.

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ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.241 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1313–1316). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources’ Air Pollution Control Program received a total of six (6)

comments on this rulemaking. One (1) comment on this rulemaking was from the U.S. Environmental Protection Agency (EPA), one (1) comment was from the department, and four (4) comments were from the St. Louis County Air Pollution Control Program.

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: Since the proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subsection (3)(D) and paragraph (4)(A)2. The proposed amendment would modify the language of that requirement from “shall” to “has to” or “have to.” Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the rule language to retain the word “shall” in subsection (3)(D) and paragraph (4)(A)2. in order to clarify the obligation for facilities.

COMMENT #3: The St. Louis County Air Pollution Control Program recommended the program clarify and align the definition of “Asbestos Abatement” with the Asbestos National Emission Standards for Hazardous Air Pollutants requirements. The St. Louis County Air Pollution Control Program recommended that changes to the definitions of Asbestos Abatement in subsection (2)(B) be worded as follows: “The encapsulation, enclosure, or removal of asbestos-containing materials, in or from a structure, or air contaminant source; or preparation of regulated asbestos-containing material prior to demolition or renovation.”

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the definition of “Asbestos Abatement” to match the recommended definition, except updating the word “structure” in the new definition to “facility.” For consistency, the word “building” located in the definition of subsection (2)(C) will be replaced with the word “facility.”

COMMENT #4: The St. Louis County Air Pollution Control Program recommended not changing the rule language in subsection (3)(D) that replaces the word “shall” with “has to.” Rule language should leave no doubt as to the intent of the regulation, and changing the word “shall” to one that is less restrictive could lead to various

interpretations. The St. Louis County Air Pollution Control Program recommended that changes to subsection (3)(D) be worded as follows: “Any person that authorizes an asbestos project, asbestos inspections, or any AHERA-related work shall ensure that Missouri...”.

RESPONSE AND EXPLANATION OF CHANGE: As mentioned in **COMMENT #2**, the department is revising rule language to retain the word “shall” in subsection (3)(D) in order to clarify the intent of the regulation.

COMMENT #5: The St. Louis County Air Pollution Control Program recommended that an electronic notification option be allowed in paragraph (3)(E)5. of the rule. The St. Louis County Air Pollution Control Program recommended that changes to paragraph (3)(E)5. be worded as follows: “Any person undertaking an emergency asbestos abatement project shall notify the department within twenty-four (24) hours of the onset of the emergency by telephone or by email and must receive departmental approval of emergency status.”

RESPONSE AND EXPLANATION OF CHANGE: The department is revising paragraph (3)(E)5. to match the suggested rule language in order to allow electronic notification for an emergency project.

COMMENT #6: The St. Louis County Air Pollution Control Program recommended not changing the rule language in paragraph (4)(A)2. that replaces the word “shall” with “has to.” Rule language should leave no doubt as to the intent of the regulation, and changing the word “shall” to one that is less restrictive could lead to various interpretations. The St. Louis County Air Pollution Control Program recommended that changes to paragraph (4)(A)2. be worded as follows: “Business entities are exempt from post-notification requirements, but shall keep records of wasted disposal for department inspection.”

RESPONSE AND EXPLANATION OF CHANGE: As mentioned in **COMMENT #2**, the department is revising rule language to retain the word “shall” in paragraph (4)(A)2. in order to clarify the intent of the regulation.

10 CSR 10-6.241 Asbestos Projects—Registration, Abatement, Notification, Inspection, Demolition, and Performance Requirements

(2) Definitions.

(B) Asbestos abatement—The encapsulation, enclosure, or removal of asbestos-containing materials, in or from a facility, or air contaminant source; or preparation of regulated asbestos-containing material prior to demolition or renovation.

(C) Asbestos inspector—An individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a facility or other air contaminant source. An asbestos inspector has to hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent.

(3) General Provisions.

(D) Any person that authorizes an asbestos project, asbestos inspection, or any AHERA-related work shall ensure that Missouri registered contractors and certified individuals are employed, and that all post-notification procedures on the project are in compliance with this rule and 10 CSR 10-6.250 and Chapter 643, RSMo. Business entities that have exemption status from the state are exempt from using registered contractors and from post-notification requirements, when performing in-house asbestos abatement projects.

(E) Asbestos Project Notification. Any person undertaking an asbestos project shall submit a notification to the department for review at least ten (10) working days prior to the start of the project. Business entities with state-approved exemption status are exempt from notification except for those projects for which notification is

required by the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAPS). The department may waive the ten (10)-working day review period upon request for good cause. To apply for this waiver, the person shall complete the appropriate sections of the notification form provided by the department. The person who applies for the ten (10)-working day waiver must obtain approval from the department before the project can begin.

1. The person shall submit the notification form provided by the department.

2. If an amendment to the notification is necessary, the person shall notify the department immediately by telephone or FAX. The department must receive the written amendment within five (5) working days following verbal agreement.

3. Asbestos project notifications shall state actual dates and times of the project, the on-site supervisor, and a description of work practices. If the person must revise the dates and times of the project, the person shall notify the department and the regional office or the appropriate local delegated enforcement agency at least twenty-four (24) hours in advance of the change by telephone or FAX and then immediately follow-up with a written amendment stating the change. The department must receive the written amendment within five (5) working days of the phone or FAX message.

4. A nonrefundable notification fee of one hundred dollars (\$100) will be charged for each project constituting one hundred sixty (160) square feet, two hundred sixty (260) linear feet, or thirty-five (35) cubic feet or greater. Effective January 1, 2017, the notification fee is two hundred dollars (\$200). If an asbestos project is in an area regulated by an authorized local air pollution control agency, and the person is required to pay notification fees to that agency, the person is exempt from paying the state fees. Persons conducting planned renovation projects determined by the department to fall under EPA's 40 CFR part 61 subpart M as specified in 10 CSR 10-6.030(23) must pay this fee and the inspection fees required in subsection (3)(F) of this rule.

5. Emergency project. Any person undertaking an emergency asbestos project shall notify the department within twenty-four (24) hours of the onset of the emergency by telephone or by email and must receive departmental approval of emergency status. Business entities with state-approved exemption status are exempt from emergency notification for state-approved projects that are part of a NESHAPS planned renovation annual notification. If the emergency occurs after normal working hours or weekends, the person shall contact the Environmental Services Program. The notice shall provide—

A. A description of the nature and scope of the emergency;

B. A description of the measures immediately used to mitigate the emergency; and

C. A schedule for removal. Following the emergency notice, the person shall provide to the director a notification on the form provided by the department and submit it to the director within seven (7) days of the onset of the emergency. The amendment requirements for notification found in subsection (3)(E) of this rule are applicable to emergency projects.

(4) Reporting and Record Keeping.

(A) Post-Notification.

1. Any person undertaking an asbestos project that requires notification according to subsection (3)(E) of this rule, on the department-provided form shall notify the department within sixty (60) days of the completion of the project. This notice shall include a signed and dated receipt for the asbestos waste generated by the project issued by the landfill named on the notification and any final clearance air monitoring results. The technician performing the analysis shall sign and date all reports of analyses.

2. Business entities are exempt from post-notification requirements, but shall keep records of waste disposal for department inspection.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 10—Air Conservation Commission

Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.250 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1316–1319). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received a total of two (2) comments on this rulemaking. One (1) comment on this rulemaking was from the U.S. Environmental Protection Agency (EPA), and one (1) comment was from the department.

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: Since the proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subparagraphs (3)(A)3.B., (3)(D)1.A., and (3)(D)1.C. The proposed amendment would modify the language of that requirement in subparagraph (3)(A)3.B. from "shall include:" to "includes"; and in subparagraphs (3)(D)1.A., and (3)(D)1.C. from "shall" to "is to." Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in subparagraphs (3)(A)3.B., (3)(D)1.A., and (3)(D)1.C. in order to clarify the obligation for facilities.

10 CSR 10-6.250 Asbestos Projects—Certification, Accreditation and Business Exemption Requirements

(3) General Provisions.

(A) Certification.

1. An individual must receive certification from the department before that individual participates in an asbestos project, inspection, AHERA management plan, abatement project design, or asbestos air sampling in the state of Missouri. This certification must be renewed annually with the exception of air sampling professionals. To become certified an individual must meet the qualifications in the specialty area as defined in the EPA's AHERA Model Accreditation Plan, 40 CFR part 763, Appendix C, subpart E promulgated as of July 1, 2018 and hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington DC 20401. This rule does not incorporate any subsequent amendments or additions. The individual must successfully complete a fully-approved U.S. Environmental Protection Agency (EPA) or Missouri-accredited AHERA training course and pass the training course exam and pass the Missouri asbestos examination with a minimum score of seventy percent (70%) and submit a completed department-supplied application form to the department along with the appropriate certification fees. The department shall issue a certificate to each individual that meets the requirements for the job category.

2. In order to receive Missouri certification, individuals must be trained by Missouri accredited providers.

3. Qualifications. An individual shall present proof of these to the department with the application for certification. The following are the minimum qualifications for each job category:

A. An asbestos air sampling professional conducts, oversees, or is responsible for air monitoring of asbestos projects. Air sampling professionals must satisfy one (1) of the following qualifications for certification:

(I) Bachelor of science degree in industrial hygiene plus one (1) year of field experience. The individual must provide a copy of his/her diploma, a certified copy of his/her transcript, and documentation of one (1) year of experience;

(II) Master of science degree in industrial hygiene. The individual must provide a copy of his/her diploma and a certified copy of his/her transcript;

(III) Certification as an industrial hygienist as designated by the American Board of Industrial Hygiene. The individual must provide a copy of his/her certificate and a certified copy of his/her transcript, if applicable;

(IV) Three (3) years of practical industrial hygiene field experience including significant asbestos air monitoring and completion of a forty (40)-hour asbestos course including air monitoring instruction. At least fifty percent (50%) of the three (3)-year period must have been on projects where a degreed or certified industrial hygienist or a Missouri certified asbestos air sampling professional was involved. The individual must provide to the department written reference by the industrial hygienist or the asbestos air sampling professional stating the individual's performance of monitoring was acceptable and that the individual is capable of fulfilling the responsibilities associated with certification as an asbestos air sampling professional. The individual must also provide documentation of his/her experience and a copy of his/her asbestos course certificate; or

(V) Other qualifications including, but not limited to, an American Board of Industrial Hygiene accepted degree or a health/safety related degree combined with related experience. The individual must provide a copy of his/her diploma and/or certification, a certified copy of his/her transcript, and letters necessary to verify experience;

B. An asbestos air sampling technician is an individual who has been trained by an air sampling professional to do air monitoring and who conducts air monitoring of asbestos projects. Air sampling technicians need not be certified but are required to pass a training

course and have proof of passage of the course at the site along with photo identification. This course shall include:

(I) Air monitoring equipment and supplies;

(II) Experience with pump calibration and location;

(III) Record keeping of air monitoring data for asbestos projects;

(IV) Applicable asbestos regulations;

(V) Visual inspection for final clearance sampling; and

(VI) A minimum of sixteen (16) hours of air monitoring field equipment training by a certified air sampling professional;

C. An asbestos inspector is an individual who collects and assimilates information used to determine the presence and condition of asbestos-containing material in a building or other air contaminant source. An asbestos inspector must hold a diploma from a fully-approved EPA or Missouri-accredited AHERA inspector course and a high school diploma or its equivalent;

D. An AHERA asbestos management planner is an individual who, under AHERA, reviews the results of inspections, reinspections, or assessments and writes recommendations for appropriate response actions. An AHERA asbestos management planner must hold diplomas from a fully-approved EPA or Missouri-accredited AHERA inspector course and a fully approved EPA or Missouri-accredited management planner course. The individual must also hold a high school diploma or its equivalent;

E. An abatement project designer is an individual who designs or plans asbestos abatement. An abatement project designer must—

(I) Have a diploma from a fully-approved EPA or Missouri-accredited project designer course;

(II) Have an engineering or industrial hygiene degree;

(III) Have working knowledge of heating, ventilation, and air conditioning systems;

(IV) Hold a high school diploma or its equivalent; and

(V) Have at least four (4) years experience in building design, heating, ventilation, and air conditioning systems. The department may require individuals with professional degrees for complex asbestos projects;

F. An asbestos supervisor is an individual who directs, controls, or supervises others in asbestos projects. An asbestos supervisor shall—

(I) Hold a diploma from a fully-approved EPA or Missouri-accredited AHERA abatement contractor/supervisor course; and

(II) Have one (1) year full-time prior experience in asbestos abatement work or in general construction work; and

G. An asbestos abatement worker is an individual who engages in asbestos projects. An asbestos abatement worker shall—

(I) Hold a diploma from a fully-approved EPA; or

(II) Missouri-accredited AHERA worker training course.

4. Certification may be denied for any one (1) or more of the following:

A. Failure to meet minimum training, education, or experience requirements;

B. Providing false or misleading statements in the application;

C. Failure to submit a complete application;

D. Three (3) or more citations or violations of existing asbestos regulations within the last two (2) years;

E. Three (3) or more violations of 29 CFR 1910.1001 or 29 CFR 1926.1101 within the last two (2) years. 29 CFR 1910.1001 and 29 CFR 1926.1101 promulgated as of July 1, 2018 are hereby incorporated by reference as published by the Office of the Federal Register. Copies can be obtained from the U.S. Publishing Office Bookstore, 710 N. Capitol Street NW, Washington, DC 20401. This rule does not incorporate any subsequent amendments or additions;

F. Fraud or failure to disclose facts relevant to their application;

G. Permitting the duplication or use by another of the individual's certificate; and

H. Any other information which may affect the applicant's

ability to appropriately perform asbestos work.

(D) Accreditation of Training Programs. To be a training provider for the purposes of this rule, a person shall apply for accreditation to the department and comply with EPA's AHERA Model Accreditation Plan 40 CFR part 763, Appendix C, subpart E as incorporated by reference in paragraph (3)(B)1. of this rule. Business entities that are determined by the department to fall under subsection (3)(E) of this rule are exempt from this section.

1. Training providers shall apply for approval of a training course(s) as provided in section 643.228, RSMo, on the department-supplied Asbestos Training Course Accreditation form.

A. In addition to the written application, the training provider shall present each initial course for the department to audit. The department may deny accreditation of a course if the applicant fails to provide information required within sixty (60) days of receipt of written notice that the application is deficient. All training providers must apply for reaccreditation biennially.

B. Training providers must submit documentation that their courses meet the criteria set forth in this rule. Out-of-state providers must submit documentation of biennial audit by an accrediting agency with a written verification that Missouri rules are addressed in the audited course.

C. Providers must pay an accreditation fee of one thousand dollars (\$1,000) per course category prior to issuance or renewal of an accreditation. No person shall pay more than three thousand dollars (\$3,000) for all course categories for which accreditation is requested at the same time.

2. At least two (2) weeks prior to the course starting date, training providers shall notify the department of their intent to offer initial training and refresher courses. The notification shall include the course title, starting date, the location at which the course will take place, and a list of the course instructors.

3. All training courses shall have a ratio of students to instructors in hands-on demonstrations that shall not exceed ten-to-one (10:1).

4. Instructor qualifications.

A. An individual must be Missouri-certified in a specialty area before they will be allowed to teach in that specialty area, except that instructors certified as supervisors may also instruct a worker course.

B. An individual with experience and education in industrial hygiene shall teach the sections of the training courses concerning the performance and evaluation of air monitoring programs and the design and implementation of respiratory protection programs. The department does not require that the instructor hold a degree in industrial hygiene, but the individual must provide documentation and written explanation of experience and training.

C. An individual who is a Missouri-certified supervisor, and who has sufficient training and work experience to effectively present the assigned subject matter, shall teach the hands-on training sections of all courses.

D. An individual who teaches the portions of the project designer's course involving heating, ventilation, and air conditioning (HVAC) systems, must—

(I) Be a licensed architect or a licensed engineer; or

(II) Must provide documentation of training and at least five (5) years' experience in the field.

5. The course provider must administer and monitor all course examinations. The course provider assumes responsibility for the security of exam contents and shall ensure that the participant passes the exam on his/her own merit. Minimum security measures for the written exams include ample space between participants, absence of written materials other than the examination and supervision of the exam by course provider.

6. When the provider offers training on short notice, the training provider shall notify the department as soon as possible but no later than two (2) days prior to commencement of that training.

7. When the provider cancels the course, the training provider

should notify the department at the same time s/he notifies course participants, and shall follow-up with written notification.

8. When rules, policies, or procedures change, the training provider must update the initial and refresher courses. The training provider must notify the department as soon as s/he makes the changes.

9. The department may withdraw accreditation from providers who fail to accurately portray their Missouri accreditation in advertisements, who fail to ensure security of examinations, who fail to ensure that each student passes the exam on his/her own merit, or who issue improper certificates.

10. Training course providers must notify the department of any changes in training course content or instructors. Training course providers must submit resumés of all new instructors to the department as soon as substitutions or additions are made.

11. The department may revoke or suspend accreditation of any course subject to this rule if alterations in the course cause it to fail the department's accreditation criteria.

12. Training providers shall have thirty (30) days to correct identified deficiencies in training course(s) before the department revokes accreditation.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.280 Compliance Monitoring Usage is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1319-1320). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received one (1) comment on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and

maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1320-1326). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking: one (1) from department staff and two (2) from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory obligation had become discretionary in subsection (4)(C). The proposed amendment would modify the language of that requirement from "shall" to "will." Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: As a result of this comment, the department plans to retain the rule text in the first sentence of subsection (4)(C) rather than incorporating the proposed change in order to clarify the intent of the regulation.

COMMENT #2: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6, 2018 stating the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(1): Generally, section 110(1) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., "anti-backsliding." Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment "criteria" pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)), describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm that the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #3: The EPA recommends that the department consider revising its definition of "Precursor of a criteria pollutant" for fine particulate at subparagraph (2)(DD)3.C. and 10 CSR 10-6.020 Definitions so that it includes volatile organic compounds (VOCs) and ammonia as precursor pollutants for particulate matter less than 2.5 micrometers in diameter (PM_{2.5}) in accordance with the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements; Final Rule (81 FR 58010).

RESPONSE: As October 2, 2018, there are no nonattainment or maintenance areas for any of the currently effective PM_{2.5} standards. The department will provide a precursor demonstration for VOC and/or ammonia when designated nonattainment for a PM_{2.5} NAAQS, as required by the SIP requirement.

10 CSR 10-6.300 Conformity of General Federal Actions to State Implementation Plans

(4) Reporting and Record Keeping.

(C) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information is controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by federal and state representatives who have received appropriate clearances to review the information.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2016, the commission amends a rule as follows:

10 CSR 10-6.380 Control of NO_x Emissions From Portland Cement Kilns is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2018 (43 MoReg 1326-1328). No changes were made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments on this rulemaking from the U.S. Environmental Protection Agency (EPA).

COMMENT #1: The EPA provided a general comment applicable to all air rules on public notice from June 15, 2018 to September 6,

2018 that the department is responsible for ensuring State Implementation Plan (SIP) revisions submitted to EPA meet the requirements of sections 110(l) and 193 of the Clean Air Act (CAA).

Section 110(l): Generally, section 110(l) provides that EPA cannot approve a SIP revision if the revision interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA. This section applies to any area and to any National Ambient Air Quality Standard (NAAQS) pollutant and/or precursor. Thus, any SIP rule is subject to this section.

Section 193: Section 193 prohibits modification of a SIP in effect before 1990 unless that modification would ensure equivalent or greater emissions reductions, i.e., “anti-backsliding.” Section 193 applies only to nonattainment areas and is specific to the nonattainment pollutant. The applicability of section 193 is specific to nonattainment “criteria” pollutants. The ozone implementation rule (codified at 40 CFR 51.905(a)(4)) describes how section 193 applies to Kansas City—an attainment area for the eight (8)-hour standard and maintenance area for the one (1)-hour standard.

RESPONSE: The amendment of the rule is consistent with Executive Order 17-03 requiring a review of every regulation to affirm the regulation is essential to the health, safety, or welfare of Missouri residents. Emissions will not increase with the proposed rule amendment and the revision will meet CAA sections 110(l) and 193 requirements. There is no negative impact on air quality. No changes were made to the rule text as a result of this comment.

COMMENT #2: There is a reference in this rule to 10 CSR 10-6.030(22); however, section (22) does not currently exist in 10 CSR 10-6.030 Sampling Methods. The EPA would not act on this SIP revision submission until a SIP revision submission for 10 CSR 10-6.030 was also submitted.

RESPONSE: The department is currently in the process of amending rule 10 CSR 10-6.030 Sampling Methods for Air Pollution Sources and plans to submit this rule for inclusion into the SIP before, or concurrently with, the submittal to EPA of amendments to 10 CSR 10-6.380. As a result of this comment, no changes were made to the rule text.

COMMENT #3: The EPA encourages the department to reconsider adding a reference to 10 CSR 10-6.030(22) in section (5) of this rule. The EPA recommends, if the department intends to continue to incorporate requirements of the Code of Federal Regulations by reference, that the incorporations be very specific.

RESPONSE: The department appreciates this comment and for all air rules found in 10 CSR 10-Chapters 1–6, where stack testing methods or guidance documents are mentioned more than once, a reference to rule 10 CSR 10-6.030 reduces the length of federal content incorporated by reference into these rules. As a result of this comment, no changes were made to the rule text.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-4.010 Construction Grant and Loan Priority System is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1596). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective

thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s Financial Assistance Center (FAC) provided testimony on the proposed rescission. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1596–1598). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s Financial Assistance Center staff provided testimony on the proposed amendment. The department received one (1) comment at the Public Hearing, one (1) typographical error was found by staff and one (1) comment was received during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in subsection (2)(E) to retain the word “shall” in order to clarify the department’s obligation.

COMMENT #2: Staff identified a typographical error in subsection (2)(D). The language was incorrectly proposed as “640.620, RSMo, or”.

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting this error with the language “section 640.620, RSMo,”

COMMENT #3: Ms. Lacey Hirschvogel, with the Missouri Public Utility Alliance (MPUA), commented on new section (5). She questioned why the repayment schedule would be based upon a thirty (30) year depreciation if a community elected to transfer ownership of a financed facility. Ms. Hirschvogel also explained that this change places additional financial burdens on grant recipients subject to this

provision and does not reduce regulatory burden.

RESPONSE AND EXPLANATION OF CHANGE: The department proposed this new section to clarify the procedures for when a state grant financed facility is sold. However, the proposed language does not fully clarify these procedures, as noted by the comment. Therefore, the department is adding the language from the comment, along with additional language not specified in the comment, to further clarify the procedures. A change has been made to this rule as a result of this comment.

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems

(2) Eligibility Requirements.

(D) Grants will be the lesser of the per connection amount specified in section 640.620, RSMo, fifty percent (50%) of the eligible costs of the improvements, or five hundred thousand dollars (\$500,000).

(E) Grants shall be used for the following costs:

1. Construction costs for the installation of new sewer collection lines, lift stations, and associated facilities required to serve an unsewered area. House laterals are not eligible;

2. Construction costs for the installation, rehabilitation, or upgrade of a wastewater treatment facility as specified in subsection (2)(C);

3. Engineering services and other services incurred in preparing the design drawings and specifications for the project. Such services must have been procured in accordance with state law to be eligible costs.

(5) If at any time after initiation of operations of the project, the wastewater treatment works funded under this rule, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a twenty- (20-) year straight line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.040 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1598-1609). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center (FAC) staff provided testimony on the proposed amendment. One (1) comment was made at the public hearing, three (3) comments were received during the public comment period and two (2) comments were received from staff.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Department staff identified an error of the word "major" being omitted from subsection (2)(F), in the definition of initiation of operations.

RESPONSE AND EXPLANATION OF CHANGE: The department is modifying the language to provide clarity to the rule.

COMMENT #3: Department staff identified typographical and grammatical errors in the following sections:

(7)(C) "40 CFR 35.3135" should be "40 CFR 35.3145";

(14) "occurs" should be "occur";

(16) "user charge," should be "user charge" and "User charge," should be "User charge";

(17)(H) "290.210-290.340" should be "sections 290.210 to 290.340";

(21)(B)19. "publicly-owned" should be "publicly owned";

(21)(B)20. "assessments" should be "assessment" and "long term" should be "long-term";

(26) "RMSo." should be "RSMo";

(27) "fifteen pages" should be "fifteen (15) pages"; and

(27)(C) "and," should be "and".

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the errors.

COMMENT #4: Comment from Ms. Lacey Hirschvogel, Missouri Public Utility Alliance (MPUA). Ms. Hirschvogel commented that the provision in new subsection (25)(B) stating "Once the loan repayment is complete, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars (\$5000) may be transferred only with written permission of the department" provides an administrative burden on both the department and borrowers with limited ability to track and enforce this requirement. Ms. Hirschvogel further requested either i) this provision be deleted or ii) the phrase "Once loan repayment is complete," be replaced with "During the loan repayment term."

RESPONSE AND EXPLANATION OF CHANGE: Staff have researched this matter and agree with the suggested revision. Similar language is included in the Purchase Agreement for recipients of Clean Water State Revolving Fund (CWSRF) loans. The provision in the Purchase Agreement about selling the wastewater treatment system is moot once the loan is paid back in full. Therefore, department permission is unnecessary. A change has been made as a result of this comment.

COMMENT #5: Ms. Hirschvogel, with MPUA, commented on the new subsection (25)(C). She questioned why the repayment schedule would be based on a thirty- (30-) year depreciation schedule if the CWSRF financed facility was sold. Ms. Hirschvogel commented this change places additional financial burdens on grant recipients subject to this provision and it does not reduce regulatory burden. She further stated that many projects may not have a thirty- (30-) year useful

life. Ms. Hirschvogel requested this provision be modified to use a depreciation schedule of the longer of i) twenty (20) years or ii) the original repayment term of the loan.

RESPONSE AND EXPLANATION OF CHANGE: The department proposed this new subsection to clarify the procedures for when a CWSRF financed facility is sold. However, staff agree further clarification is needed. Therefore, the department is adding the language from the comment, along with additional language not specified in the comment, to further clarify the procedures. A partial change has been made to this rule as a result of this comment.

COMMENT #6: Ms. Hirschvogel, with MPUA, requested that the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, only apply to projects that have been deemed to be "equivalency" projects. Ms. Hirschvogel explained that making the equivalency cross-cutters apply to a smaller subset of projects would reduce regulatory burden and has the potential to increase the amount of eligible costs that can be funded through the CWSRF program. Ms. Hirschvogel requested that the department consider adding language similar to what is being proposed in 10 CSR 60-13.020(C)(7) to develop a policy to exempt certain cross-cutter requirements for non-equivalency requirements.

RESPONSE: The department disagrees that the Uniform Relocation and Real Property Acquisition Policies Act should only apply to projects that have been selected as equivalency per the federal Capitalization Grant. Federal Law (49 CFR 24.101(b)) states that the requirements of the Uniform Relocation and Real Property Acquisition Policies Act apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the specific acquisitions. Therefore, recipients of CWSRF financing are required to comply with the Uniform Relocation and Real Property Acquisition Act if they want to be reimbursed for the property through the CWSRF program. The department further does not support adding the language similar to what is being proposed in 10 CSR 60-13.020(C)(7) because developing a policy exempting certain cross-cutters would contradict federal law. Therefore, no changes were made as a result of this comment.

10 CSR 20-4.040 Clean Water State Revolving Fund General Assistance Regulation

(2) Definitions. The definitions of terms for 10 CSR 20-4.040–10 CSR 20-4.050 are contained in 10 CSR 20-2.010 and subsections (2)(A)–(N) of this rule.

(F) Initiation of operation—The date when the first major constructed component is capable of being used for its intended purpose.

(7) General CWSRF Assistance Requirements. The commission will prioritize potential CWSRF projects by assigning priority points in accordance with the CWSRF Priority Point Criteria established per subsection (29)(A) of this rule.

(C) For equivalency projects, the recipient and its contractors must comply with all requirements associated with funds provided under 40 CFR 35.3145.

(14) Public Participation. Public participation must be preceded by timely distribution of information and occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. Public participation shall include the following:

(16) User Charge and Sewer Use Ordinance. Recipients are required to maintain, for the useful life of the treatment works, user charge and sewer use ordinances approved by the department. User charge and sewer use ordinances, at a minimum, shall be adopted prior to financing and implemented by the initiation of operation of the financed wastewater treatment works.

(17) Specifications. The construction specifications must contain the features listed in the following:

(H) State Wage Determination. The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards as established by sections 290.210 to 290.340, RSMo;

(21) Classification of Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under programs supported by this regulation and 40 CFR part 35 subpart I, including Appendix A.

(B) Eligible Costs. Eligible costs include, at a minimum:

1. Engineering services and other services incurred in planning and in preparing the design drawings and specifications for the project. For invoice reimbursement, the department must have a copy of the executed engineering contract for planning and design of the project;

2. The cost incurred pursuant to a contract for building those portions of the project which are for treatment of wastewater, correction of I/I, or for new interceptor sewers. These costs include change orders within the allowable scope of the project and the costs of meritorious contractor claims for increased costs under sub agreements;

3. The reasonable cost of engineering services incurred during the building and initial operation phase of the project to ensure that it is built in conformance with the design drawings and specifications. A registered professional engineer licensed in Missouri or a person under the direction and continuing supervision of a registered professional engineer licensed in Missouri must provide inspection of construction for the purpose of assuring and certifying compliance with the approved plans and specifications. Eligible construction phase and initial operation phase service are limited to—

- A. Office engineering;
- B. Construction surveillance;
- C. Stakeout surveying;
- D. As-built drawings;
- E. Special soils/materials testing;
- F. Operation and maintenance manual;

G. Follow-up services and the cost of start-up training for operators of mechanical facilities constructed by the project to the extent that these costs are incurred prior to this department's final inspection. Costs shall be limited to on-site operator training tailored to the facilities constructed or on- or off-site training may be provided by the equipment manufacturer if this training is properly procured;

H. User charge and sewer use ordinance; and

I. Plan of operation;

4. Demolition costs. The reasonable and necessary cost of demolishing publicly owned WWTF's which are no longer utilized for wastewater collection, transportation, or treatment purposes. The reasonable and necessary cost of demolishing privately-owned WWTF's which will be eliminated or replaced by a publicly-owned treatment works if the proposed elimination was addressed in the approved facility plan. Generally, these costs will be limited to the demolition and disposal of the structures, removal and disposal of biosolids, final grading, and seeding of the site;

5. Equipment, materials, and supplies.

A. The cost of a reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations and laboratory items necessary to conduct tests required for plant operation.

B. Cost of shop equipment installed at the treatment works necessary to the operation of the works.

C. The costs of necessary safety equipment, provided the equipment meets applicable federal, state, local, or industry safety requirements.

D. The costs of mobile equipment necessary for the operation of the overall wastewater treatment facility, transmission of wastewater or sludge, or for the maintenance of equipment. These items include:

(I) Portable standby generators;

(II) Large portable emergency pumps to provide pump-around capability in the event of pump station failure or pipeline breaks; and

(III) Trailers and other vehicles having as their purpose the transportation, application, or both, of liquid or dewatered sludge or septage;

E. The cost of a reasonable inventory of replacement parts identified and approved in advance for new wastewater treatment facilities;

6. Land or easements required to complete the project. In order to be eligible for reimbursement, land must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91- 646, as amended. Certification by the recipient of compliance under this Act is required;

7. The cost of I/I correction, other than normal maintenance costs, and treatment works capacity adequate to transport and treat I/I;

8. Purchase of a private wastewater system, provided the project will eliminate or upgrade the existing facilities. The purchase of a private wastewater system must be purchased in accordance with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, P.L. 91- 646, as amended. Certification by the recipient of compliance under this Act is required;

9. The cost of preparing environmental documentation required under 10 CSR 20-4.050;

10. Nonpoint source projects as identified in the most current Missouri Nonpoint Source Management Plan;

11. Construction permit application fees, costs of issuance, capitalized interest, and contracted project administration costs;

12. Debt service reserve deposits;

13. Collector sewers provided that they meet the requirements of either—

A. For major rehabilitation or replacement of collection sewers that are needed to assure the total integrity of the system; or

B. New collector sewers for existing communities where sufficient treatment capacity exists or adequate treatment will be available when collectors are completed;

14. Correction of combined sewer overflows;

15. House laterals if they lie within the public easement and will be maintained by the recipient;

16. Storm water transport and treatment systems, and nonpoint source best management practices;

17. Third party costs, incurred under a contract, associated with preparing a fiscal sustainability plan;

18. Energy conservation projects that reduce energy consumption including energy efficient equipment and certain renewable energy facilities;

19. Water conservation projects that reduce demand for publicly owned water treatment works including water meters, water efficient appliances, education programs, and incentive programs; and

20. Planning and assessment activities including asset management plans, capital improvement plans, integrated planning, long-term control plans, water or energy audits, treatment works security and safety plans, or environmental management systems.

(25) Disposition of Treatment Works. The recipient must receive the written consent of the department prior to the disposal of the wastewater treatment works or any material part thereof financed or refinanced with the proceeds of a loan.

(B) During the loan repayment term, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars (\$5,000) may be transferred only with written permission of the department.

(C) If at any time after initiation of operations of the project, the wastewater treatment works funded with a CWSRF grant, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reim-

bursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a 20-year straight-line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

(26) Procurement of Design-Build Services. The procurement of design-build services shall be in accordance with section 67.5060, RSMo. Recipients that are exempt from section 67.5060, RSMo may also utilize design-build services if local ordinances or policies allow design-build and the procurement of the design-build team considers both the qualifications of the team and the project selected meets the cost effectiveness requirements of subsection (10)(B). Recipients seeking funds for a project utilizing design-build services must notify the department with the recipient's CWSRF application. Recipients that utilize design-build services shall coordinate procurement activities with the department to ensure compliance with CWSRF requirements. The department may restrict the amount of funding available for projects using design-build services, if needed to comply with federal law and regulations.

(27) Plan of Study. Facility planning loans, not to exceed a five (5) year repayment term, or grants may be provided by the commission to applicants with an existing publicly owned wastewater system. Applicants that desire to receive a loan for facility planning must submit a plan of study. The plan of study should include the following information (generally in fifteen (15) pages or less):

(C) The nature and scope of planning, including a description of the need for the project, and facilities planning tasks and schedule; and

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.041 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1609-1611). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. The department received one (1) comment during the public comment period and staff identified two (2) typographical and grammatical errors.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder

engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in section (5) and in subsection (6)(A) to retain the word “shall” in order to clarify the department’s obligation.

COMMENT #2: Staff identified typographical and grammatical errors in the following sections:

(8) “(8)(A)–(E)” should be “(8)(A)–(D)”;

(9) “(.5%) for” should be “(.5%) of the outstanding loan balance for”.

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting the errors.

10 CSR 20-041 Direct Loan Program

(5) Interest Rates. The department shall use the target interest rate (TIR) policy as established by the commission under section (4) of 10 CSR 20-4.040.

(6) Reimbursement Terms.

(A) The maximum reimbursement shall be no more than the sum of all eligible costs incurred to date. Each payment request shall include the information listed in the following paragraphs (6)(A)1.–3. and other information deemed necessary by the department to insure proper project management and expenditure of public funds:

1. Completed reimbursement request form;

2. Construction pay estimates signed by the construction contractor, the recipient, and the consulting engineer, if applicable; and

3. Invoices for other eligible services, equipment, and supplies for the project.

(8) Amortization Schedules. The guidelines contained in the following subsections (8)(A)–(D) are to be used to establish amortization schedules under this rule:

(9) Loan Fees. The department may charge annual loan fees not to exceed one-half percent (.5%) of the outstanding loan balance for state direct loans. CWSRF direct loan recipients will be charged a fee on the loan in accordance with 10 CSR 20-4.040(5).

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-4.042 Leveraged Loan Program is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1611). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s

Financial Assistance Center (FAC) provided testimony on the proposed rescission. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1611–1615). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s Financial Assistance Center provided testimony on the proposed amendment. One (1) typographical error was identified by the department, one (1) comment was received at the public hearing and the department received nineteen (19) additional comments during the public comment period.

COMMENT #1: Department staff identified a grammatical error in subsection (5)(A). The language was written as “When the director has determined that an recipient’s proposed project may be excluded from a formal environmental review, the director will prepare a determination to categorically exclude the project.”

RESPONSE AND EXPLANATION OF CHANGE: “An” was changed to “a” in subsection (5)(A) to correct the error.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in paragraph (4)(B)2., in order to clarify the department’s obligation.

COMMENT #3: Karen Lux, Kathleen Dolson, Francine Glass, Stacy Cheavens, Tyler Harrison, Paulette Zimmerman, C. Wulff, Dana Gray, Laurie Lakebrink, Denise Baker, Barry Leibman, Joyce Wright, Tom Abeln, Arlene Sandler, Jeanne Heuser, and Maisah Khan with Missouri Coalition for the Environment (MCE) commented that changes to this rule could remove language about the requirements for public hearings and public access to documents related to new projects. All commenters requested the department does not

change 10 CSR 20-4.050.

RESPONSE AND EXPLANATION OF CHANGE: The change to 10 CSR 20-4.050(4)(B)2. does not remove the requirement that a recipient advertise and host a forum for public participation or remove public access to documents. Per the amendment, it will allow the recipient to choose to host either a public hearing or a public meeting advertised at least thirty (30) days in advance in the local newspaper of general circulation. The amendment does propose to remove the requirement that the recipient send “a notice of the public hearing and availability of the documents to all local, state, and federal agencies and public and private parties that may have an interest in the proposed project.” However, interested parties will be made aware of the meeting through the newspaper advertisement, and may access documents by attending the meeting or by contacting the department to request such documents.” Changes to this rule are being made for clarification.

COMMENT #4a: Caroline Pufalt, Sierra Club MO commented that she opposed removing the language about the requirements for public hearings and public access to documents related to new projects.

RESPONSE: The change to 10 CSR 20-4.050(4)(B)2. does not remove the requirement that a recipient advertise and host a forum for public participation or remove public access to documents. Per the amendment, it will allow the recipient to choose to host either a public hearing or a public meeting advertised at least thirty days in advance in the local newspaper of general circulation. The amendment does propose to remove the requirement that the recipient send “a notice of the public hearing and availability of the documents to all local, state and federal agencies and public and private parties that may have an interest in the proposed project.” However, interested parties will be made aware of the meeting through the newspaper advertisement, and may access documents by attending the meeting or by contacting the Department to request such documents.” Changes to this rule are being made for clarification.

COMMENT #4b: Ms. Pufault further commented on 10 CSR 20-4.050(7) stating that the department should evaluate the environmental reviews accepted by other agencies to make sure it considers all relative issues.

RESPONSE: All agencies that provide federal funds, such as those offering Community Development Block Grants and U.S. Department of Agriculture funds are subject to the provisions of the National Environmental Policy Act of 1969, as amended (NEPA), which established national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. Thus, all environmental reviews accepted by DNR than have been approved by another agency will comply with NEPA. This amendment allows a recipient planning a project co-funded through the State Revolving Fund and one of the named entities to avoid duplication of effort and unnecessary increased cost. No changes have been made to this rule as a result of these comments.

COMMENT #5: A comment was made anonymously stating difficulty finding rule text.

RESPONSE: During the comment period time, the proposed rule was located on the DNR Web page, along with all other proposed amendments, through a link titled “Rules in Development” under the main tab “Laws and Regulations,” it was published in the *Missouri Register* dated July 16, 2018, and a copy was linked in the department’s Regulatory Action Tracking System. No changes have been made to this rule as a result of these comments.

10 CSR 20-4.050 Environmental Review

(4) Environmental Information Required for Environmental Review.

(B) An EID must be submitted by those recipients whose proposed projects do not meet the criteria for a CE and for which the director has made a preliminary determination that an EIS will not be required. The director will provide guidance on both the format and

contents of the EID to potential recipients prior to initiation of facilities planning.

1. At a minimum, the contents of an EID will include:

A. The purpose and need for the project;
B. Information describing the current environmental setting of the project and the future environmental setting without the project;

C. The alternatives to the project as proposed;

D. A description of the proposed project;

E. The potential environmental impacts of the project as proposed including those which cannot be avoided;

F. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;

G. Any irreversible and irretrievable commitments of resources to the proposed project;

H. Proposed mitigation measures to minimize the environmental impacts of the project;

I. A description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and

J. Documentation of coordination with appropriate governmental agencies.

2. Prior to the recipient’s adoption of the facilities plan, the recipient must hold a public meeting or hearing on the proposed project and the EID, and provide the director with a complete record of the meeting or hearing, including all EID reference documents. The meeting or hearing must be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Included with the meeting record must be a list of all attendees with addresses, any written testimony and the recipient’s responses to the issues raised.

(5) Environmental Determination.

(A) When the director has determined that a recipient’s proposed project may be excluded from a formal environmental review, the director will prepare a determination to categorically exclude the project.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 4—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-4.061 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1615–1618). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s Financial Assistance Center (FAC) staff provided testimony on the proposed amendment. The department received one (1) comment at the Public Hearing, one (1) comment during the public comment period, the department identified one (1) paragraph that needed to be deleted and one (1) grammatical error.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the

word “shall” in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: A comment was made anonymously stating difficulty finding rule text.

RESPONSE: During the comment period time, the proposed rule was located on the DNR Web page, along with all other proposed amendments, through a link titled “Rules in Development” under the main tab “Laws and Regulations”, it was published in the *Missouri Register* dated July 16, 2018, and a copy was linked in the department’s Regulatory Action Tracking System. No changes have been made to this rule as a result of these comments.

COMMENT #3: In paragraph (5)(B)12., the department staff discovered the paragraph needed to be deleted since we no longer administer grant anticipation loans.

RESPONSE AND EXPLANATION OF CHANGE: The department is deleting the paragraph as a result of this comment.

COMMENT #4: Staff found grammatical errors in section (14), “storm water” should be “storm water loan” in two (2) places.

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting the errors.

10 CSR 4.061 Storm Water Grant and Loan Program

(5) Eligible Project Costs. The information in this section represents policies and procedures for determining the eligibility of project costs for assistance under the Storm Water Grant and Loan Program.

(B) Eligible Costs. Eligible costs include at a minimum:

1. Costs for development of a comprehensive storm water control plan meeting the requirements of subsection (3)(D);

2. Engineering services for planning and design based on invoiced amounts for a contracted engineering consultant. A copy of the approved engineering agreement must be submitted to the department or delegated entity when engineering services are to be reimbursed with grant or loan funds. The contract should be a lump sum or cost plus fixed fee contract in the form of a bilaterally executed written agreement.

3. Costs for construction-related engineering when invoiced per an acceptable two (2)-party engineering agreement;

4. Construction costs including construction permits as issued by the department;

5. Land purchase or permanent easement costs required for storm water holding basins, grass-lined channels, or for other limited structural storm water control projects, or buy-outs if the land purchased is restricted such that no permanent structure except for structures allowed under the Missouri Statewide Comprehensive Outdoor Recreation Plan (SCORP) may be constructed within the easement or purchase area. Construction costs related to holding basins on private land are eligible if the eligible recipient retains a permanent easement, is legally responsible for operation and maintenance of the facility, and the basin constructed is clearly for storm water control and not recreational use;

6. Costs of force account work for planning, design, construction, construction engineering, and costs of rented or leased equip-

ment. It does not include the costs of recipient-owned equipment or the costs of administration for grants and loans. Engineering performed by force account must meet the requirements of 10 CSR 20-4.061(9) which state that storm water plan preparation, design, and inspection must be provided by a registered professional engineer or by a person under the direct and continuing supervision of a registered professional engineer. To be considered for force account, the following information must be submitted for review and approval by the department prior to beginning on the project:

A. Which project(s) they intend to do with city employees;

B. The names of the employees who will be working on the project;

C. A specific time code must be assigned to each project. The letter should state the time code number;

D. For engineering work, the letter must contain an assurance that the employee is a registered professional engineer or the name of the professional engineer who directly supervises this person;

E. The hourly wage for each individual must be given. If the person is salaried, this is the total annual salary divided by two thousand and eighty (2,080) hours. The hourly wage cannot include fringe or indirect costs; and

F. A copy of the time card that will be used. The time card must list the employee name, project time code, hours worked, and the signature of the employee and the supervisor. Should there be a change in employees, salary, or engineering supervisor during the course of the project, the recipient must amend/update the information in the original letter before that salary and/or employee cost can be reimbursed;

7. Demolition costs of structures located within storm water control areas provided future development of permanent structures in the storm water control area is restricted;

8. Local cost of issuance and capitalized interest incurred on loans administered under this rule;

9. Up to five (5) sequential years of grant and/or loan funding may be used for the same project if it meets the following criteria:

A. The contract is awarded within the time frame necessary to receive the first grant and/or loan of the sequence;

B. The recipient certifies that there are adequate funds committed from other sources to complete the construction;

C. The recipient commits to the original funding combination for the entire sequence of grants and/or loans; and

D. The recipient certifies that the project will be completed with or without the subsequent years’ grant/loan funds.

10. Costs associated with minimizing storm water damage to sink holes; and

11. The reasonable costs of administrative fees incurred by a delegated entity in connection with each grant.

(14) Storm Water Loan Revolving Fund. Storm water grants and loans may be awarded from the storm water loan revolving fund as funds are available. Eligible applicants must be a municipality, county, public sewer district, public water district, or a combination of the same. Except for subsections (3)(A)–(C), all provisions of this regulation apply to grants and loans made from the storm water loan revolving fund.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1618–1629). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Mr. Robert Brundage with Newman, Comley, and Ruth, and Mr. Kevin Perry with Regulatory Environmental Group for Missouri (REGFORM) provided comments during the public hearing. The department received three (3) comment letters during the public comment period, plus department staff comments.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review changes have been made to the following: Sections (1), (2), (3), (5),(7), (9), (11), and (15) (see attached).

COMMENT #2: Department staff commented that the language in 10 CSR 20-6.010(1)(A) should reference section (5) not (4).

RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated with the correct reference to section (5).

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on the proposed change in subsection (1)(B), which states: "(B) The following are exempt from this rule." This subsection says exemptions only apply to "this rule" instead of "permit regulations" as provided in the current regulation. As proposed, this exemption may only apply to discharging facilities and not to non-discharging facilities. There is a rinsate exemption under 6.010(1)(B) but not under the no-discharge regulation 6.015. An unintended consequence could be that a no-discharge permit may be required for rinsate even though exempted under "this rule." If the language were not changed and continues to refer to "permit regulations," it would better clarify that the exemption applies to any permit, both discharging and non-discharging facilities.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (1)(A) requires all facilities to have a permit in accordance with sections (5) and (7) of this rule and with the Missouri Clean Water Law and regulations. The list in subsection (1)(B) is activities exempted from the permitting requirements in subsection (1)(A). There are multiple rules concerning permits and to clarify the exemptions provided in subsection (1)(B) cover activities that may be discussed in other rules, specifically the other rules in 10 CSR 20-6, the rule language was returned to the existing rule language of "permit regulations."

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth, provide comment on the exemption of internal plumbing

changes and that the requirement that they do not discharge to waters of the state creates confusion. In his comment, Mr. Brundage explains that the exemption would be limited as it does not allow internal plumbing changes where water that flows through these plumbing changes is eventually discharged to a permitted outfall to waters of the state.

RESPONSE AND EXPLANATION OF CHANGE: The exemption applies to internal piping and plumbing changes that do not have a discharge. At some facilities, there are internal areas that have an emergency spillway or overflow application that can discharge to waters of the state. Changes to these areas would not be exempt. For clarification, the rule language has been reworded to state the exemption applies except to the point where effluent is conveyed to receiving waters.

COMMENT #5: Mr. Stanley Thessen with MFA and Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on the exemption for the application of rinsates. They noted that it applies to agricultural rinsates and that the exemption should include fertilizers.

RESPONSE AND EXPLANATION OF CHANGE: The term agricultural chemical was added to limit the exemption to agricultural rinsates. As a result of this comment fertilizer was added to the exemption, so that the exemption now applies to fertilizers and pesticide rinsates applied appropriately.

COMMENT #6: Mr. Kevin Perry with REGFORM provided comments supporting the exemption of *de minimis* hydrostatic testing proposed in (1)(B)10., and requests the Clean Water Commission (CWC) adopt it.

RESPONSE: The department appreciates the support. No change was made as a result of this comment.

COMMENT #7: Department staff noted that there was a grammatical mistake in subsection (2)(B) and the incorrect reference in paragraph (2)(B)2. related to continuing authority. Additionally, a change in rule language was needed to (2)(B)5.C.

RESPONSE AND EXPLANATION OF CHANGE: The grammatical mistake in subsection (2)(B) was corrected and the reference in paragraph (2)(B)2. was corrected to subsection (2)(F). The rule language in subparagraph (2)(B)5.C. was updated.

COMMENT #8: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on paragraph (2)(B)5. pertaining to Level 5 authority which are property owners associations. The existing permit language refers to "covenants on the land" and that the proper legal term is covenants "running with the land."

RESPONSE AND EXPLANATION OF CHANGE: The term "running with the land" has been added and the existing language removed.

COMMENT #9: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on the requirement that industries submit a "statement waving preferential status from each existing higher preference authority," stating that there may not be an existing higher preferential authority. Mr. Brundage also commented that as the rule is written, this requirement seems to require an industry to provide the waiver instead of the higher preferential authority providing the waiver. He suggested rewording it to state, "... submit from each existing higher preference authority a statement waving preferential status...."

RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated to clarify that a waiver is from the higher preferential authority if it is available. The submittal of the waiver is part of the industry's permitting application.

COMMENT #10: Department staff commented that the reference in (2)(F) on Level 2 Continuing Authority has an incorrect reference in paragraphs (2)(F)4. and (2)(F)5.

RESPONSE AND EXPLANATION OF CHANGE: The incorrect reference in (2)(F)4. and (2)(F)5 were corrected to reference (2)(F)2. and (2)(F)1.-4.

COMMENT #11: Mr. Robert Brundage with Newman, Comley, and Ruth, commented under the Antidegradation section of the rule (Section 3), that language regarding the appeal process should be included in the rule to provide the permittee notice of their rights. Mr. Brundage also commented that a written determination should be provided on the applicability of the antidegradation review.

RESPONSE AND EXPLANATION OF CHANGE: The language regarding the antidegradation appeal process was removed as it is already incorporated by reference in 10 CSR 20-7.031(3) in the Antidegradation Implementation Procedure. A statement that the department will provide written determination of antidegradation applicability has been added to the subsection to clarify and to provide consistency with other sections of the rule that state the department will provide written determinations.

COMMENT #12: Department staff commented on a grammatical mistakes in paragraphs (4)(A)2. and (4)(B)5. Additionally, the reference in (4)(B)2. references the design guides in 10 CSR 20-8, and it should reference the design standards.

RESPONSE AND EXPLANATION OF CHANGE: The rule has been updated to correct paragraphs (4)(A)2. and (4)(B)5. and the reference in (4)(B)2. reflects the design standards in 10 CSR 20-8.

COMMENT #13: Department staff commented that the language in 10 CSR 20-6.010(4)(A)5.D. should be clarified to state that Geohydrological evaluations should be conducted for all major modifications of earthen basins.

RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated to clarify that Geohydrological evaluations will be conducted on major modification of earthen basins.

COMMENT #14: Department staff commented that the reference in (4)(B) is incorrect for projects not requiring engineering reports and/or facility plans are not required for sewer extensions covered under the general permit or for exempted projects.

RESPONSE AND EXPLANATION OF CHANGE: The internal reference to projects exempt from construction permitting has been corrected to (5)(B) and the sewer extension general permit has been corrected to (5)(C).

COMMENT #15: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comments on the exemptions in section (5) noting there may be confusion with subsection (A) which is the activities that require permits, and subsection (B) which are the exemptions. The example he provided was related to Class I Concentrated Animal Feeding Operations (CAFOs) who do not construct an earthen basin - they are exempt from construction permits. However, in subsection (B) it states Class II CAFOs are exempt. He requests that since there is no reference to, or language similar to, the requirements and exemptions described in section 644.051.3, RSMo, that the language be revised to state in subsection (B) that all activities not referenced in subsection (A) are exempt.

RESPONSE: All Class II CAFOs are currently exempt from construction permitting requirements. Class I CAFOs, if constructing an earthen basin, are required to obtain a construction permit, which is what paragraph (5)(A)3. is stating. The majority of the exemptions listed in subsection (5)(B) have been identified as activities that would require a construction permit under subsection (5)(A) of the rule in that they are modifications to treatment systems, but the review of such would not provide much in environmental protections. The language and listing of exemptions was discussed in the stakeholder meetings and the language specific to CAFO operations was added for clarification at the request of stakeholders. No changes were made as a result of this comment.

COMMENT #16: Mr. Kevin Perry with REGFORM provided comments in support of the exception of activities that require a construction permit proposed in (5)(B) of this rule, including its subsections and a request that the CWC adopt these exceptions.

RESPONSE: The department appreciates the support. No changes were made as a result of this comment.

COMMENT #17: Department staff commented on the grammatical errors in the reference to statute in subsection (5)(B), in the wording in paragraphs (5)(B)2., (5)(E)2., subsection (5)(G), paragraph (5)(H)3. and subsection (5)(M). Additionally, an extra “,” was noted in paragraph (5)(H)2. and the reference in subsection (5)(M) to Antidegradation public comment procedures is incorrect.

RESPONSE AND EXPLANATION OF CHANGE: The references in subsections (5)(B) and (5)(M) were corrected. Paragraphs (5)(B)2., (5)(E)2., subsections (5)(G), (5)(H), and (5)(M) were corrected.

COMMENT #18: Department staff commented that the references in (7)(B)1.E. to variances, in (7)(D) to general permit applications, and in (7)(E) to signatures were incorrect.

RESPONSE AND EXPLANATION OF CHANGE: The reference in (7)(B)1.E. has been updated to reference section (15), the reference in (7)(D) has been updated to reference the correct subsection of the statute, and the reference in (7)(E) has been corrected to reference (7)(B)2.

COMMENT #19: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment under the operating permit sections that the operating permits are issued to the owner and the continuing authority. In his comment letter, he stated there is no legal authority to require an owner who has no operational control over the water contaminant or point source to obtain a permit or to be listed on the permit. He states the requirement is inconsistent with the definition of continuing authority and that it is not uncommon for the owner of the real estate or structures on the property to not have any control because it has leased the property to the continuing authority who is operating the facility. Mr. Brundage suggested this subsection should be revised as follows: “The operating permit shall be issued to the continuing authority.”

RESPONSE: Permits are issued to the owners of the permitted activity, based on the information provided in the application. Ownership of real property is not a prerequisite for a permit. The department does not designate the contracts between the individuals and/or companies. The contract between the entities should designate the responsibilities for maintaining compliance. If an operation should be in noncompliance, the department has the responsibility to ensure the violations are resolved by the permittee and continuing authority. No changes were made as a result of this comment.

COMMENT #20: Department staff commented that in (8)(A)9., the reference to closure plans in section (11) should be section (12). Additionally it was noted an incorrect reference in subsection (12)(D) referenced the incorrect section of the rule.

RESPONSE AND EXPLANATION OF CHANGE: The rule has been updated to reflect the correct reference to closure plans in section (12).

COMMENT #21: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment on subsection (10)(B) that there are instances where an owner wants to shut down the business but not permanently eliminate the wastewater treatment facility in the event that it could be restarted in the future, but the rule requires a wastewater treatment facility or point source to be permanently eliminated before the permit can be terminated.

RESPONSE: With regard to termination of an operating permit, the requirement is to eliminate the potential releases from a water contaminant, point source, or wastewater treatment plant, as specified in 644.051.2 and 644.082, RSMo. No changes were made to the rule

as a result of this comment.

COMMENT #22: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment on section (11) regarding the requirement that permittee/transferor/continuing authority and the transferee both sign an application transfer. In his letter, he provided an example that there may be instances where the current permittee is unable to sign the transfer application and as such the signature of the permittee/transferor should not be required.

RESPONSE: While signatures from both the previous permittee and the transferee is the preferred method, there are many instances where the existing permittee is unable to sign. The transferee or the new permittee needs to apply for a permit, which requires the permittee to demonstrate they are responsible for compliance with the terms and conditions of the permit. No changes were made to the rule as a result of this comment.

COMMENT #23: Department staff commented that the language in 10 CSR 20-6.010(11)(A)2. should reference section (5) not (4).

RESPONSE AND EXPLANATION OF CHANGE: The rule language has been updated with the correct reference to section (5).

COMMENT #24: Mr. Robert Brundage with Newman, Comley, and Ruth, provided a comment related to a closure plan requiring the contemplation of the removal of treatment structures. His comment is that removal of treatment structures should not be required, as they may be assets of value and have future use, and that the only requirement should be to remove any on-site pollutants that would have the potential to be released to waters of the state.

RESPONSE: The requirement of a closure plan does require the contemplation of the removal of treatment structures, but it does not require the removal. Structures can be and often are maintained at a facility, the only requirement is the removal of the potential for any water contaminant or point source, as stated in 644.051.2 and 644.082, RSMo. No changes were made to the rule as a result of this comment.

COMMENT #25: Mr. Robert Brundage with Newman, Comley, and Ruth, provided comment on subsection (13)(D) that states "Any owner/continuing authority authorized by general operating permit..." His comment was what does the "/" mean, does it mean "and" or "or" or "and/or?" He proposed that the term "owner" be deleted.

RESPONSE AND EXPLANATION OF CHANGE: The "/" was present in the existing rule. To clarify, the "/" has been removed and changed to owner and continuing authority.

COMMENT #26: Department staff noted a comma was missing and there was an extra word, "to," in subsection (13)(C).

RESPONSE AND EXPLANATION OF CHANGE: Subsection (13)(C) was corrected.

COMMENT #27: Department staff noted in subsections (14)(B), (14)(C), and (14)(E) referenced the wrong subsection for effluent limits for hydrostatic testing.

RESPONSE AND EXPLANATION OF CHANGE: Subsections (14)(B), (14)(C), and (14)(E) were updated to reference section (14)(A).

COMMENT #28: Department staff noted the word "section" was missing in front of the references to Missouri statutes in section (15).

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (15)(C)2. was updated to add section in front of the references to statute.

10 CSR 20-6.010 Construction and Operating Permits

(1) Permits—General.

(A) All persons who build, erect, alter, replace, operate, use, or

maintain existing point sources, or intend these actions for a proposed point source, water contaminant sources, or wastewater treatment facilities shall apply to the Missouri Department of Natural Resources (department) for the permits required in accordance with sections (5) and (7) of this rule, the Missouri Clean Water Law and regulations. The department issues these permits to enforce the Missouri Clean Water Law and regulations and administer the National Pollutant Discharge Elimination System (NPDES) Program.

(B) The following are exempt from permit regulations:

1. Nonpoint source discharges;
2. Service connections to wastewater collection systems;
3. Internal plumbing, piping, water diversion, or retention structures that are an integral part of an industrial process, plant or operation, except to the point wastewater is conveyed to receiving water;
4. Routine maintenance or repairs of any existing collection system, wastewater treatment facility, or other water contaminant or point source;
5. Onsite systems for single family residences;
6. The discharge of water from an environmental emergency cleanup site under the direction of, or the direct control of, the department or the Environmental Protection Agency (EPA), provided the discharge does not violate any condition of 10 CSR 20-7.031 Water Quality Standards;
7. Water used in constructing and maintaining a drinking water well and distribution system for public and private use, geologic test holes, exploration drill holes, groundwater monitoring wells, and heat pump wells;
8. Projects for beneficial use, that do not exceed a period of one (1) year, may be exempted by written project approval from the department. The department may extend the permit exemption for up to one (1) additional year.
9. The application of pesticides in order to control pests (e.g., any insect, rodent, nematode, fungus, weed, etc.) in a manner that is consistent with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Missouri Pesticide Use Act unless such application is made directly into or onto waters of the state, in which case the applicator shall obtain a permit;
10. Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks in the state of Missouri may discharge to waters of the state without first obtaining a permit if the discharge is de minimis (less than one thousand (<1,000) gallons) or meeting the requirements in section(14) of this rule;
11. Nondischarging earthen basins for domestic wastewater flows of three thousand gallons per day (3,000 gpd) or less; and
12. Agrichemical rinsates and any spilled or recovered fertilizers and pesticides that are field applied at rates compatible with product labeling.

(2) Continuing Authorities.

(B) Continuing authorities are listed in preferential order in the following paragraphs. A level three (3), four (4), or five (5) applicant may constitute a continuing authority by showing that the authorities listed under paragraphs (B)1.-2. of this rule are not available; do not have jurisdiction; are forbidden by state statute or local ordinance from providing service to the person; or that it has met one of the requirements listed in paragraphs (2)(C)1.-7. of this rule.

1. Level 1 Authority. A municipality or public sewer district or governmental entity which has been designated as the area-wide management authority under section 208(c)(1) of the Federal Clean Water Act;

2. Level 2 Authority. A municipality, public sewer district, or governmental entity which currently provides wastewater collection and/or treatment services on a regional or watershed basis as outlined in section (2)(F) of this rule and approved by the Missouri Clean Water Commission;

3. Level 3 Authority. A municipality, public sewer district, or

sewer company regulated by the Public Service Commission (PSC) other than one which qualifies under paragraph (2)(B)1. or 2. of this rule or a public water supply district. Permits shall not be applied for by a continuing authority regulated by the PSC until the authority has obtained a certificate of convenience and necessity from the PSC;

4. Level 4 Authority. Any person, industry, or group of persons contractually obligated to collectively act as a wastewater collection and treatment service, or nonprofit company organized under section 393.825, RSMo, with complete control of, and responsibility for the water contaminant source, point source, or wastewater treatment system.

5. Level 5 Authority. An association of property owners served by the wastewater treatment facility, provided the applicant documents that—

A. The association is a corporation in good standing registered with the Office of the Missouri Secretary of State.

B. The association owns the facility and has valid easements for all sewers;

C. The covenants running with the land of each property owner provide the authority with compliance of wastewater treatment systems including at a minimum:

(I) The power to regulate the use of the collection system and/or the wastewater treatment facility;

(II) The power to levy assessments on its members and enforce these assessments by liens on the properties of each owner;

(III) The power to convey the facility to one (1) of the authorities listed in paragraphs (2)(B)1.-3.; and

(IV) The requirement that members connect with the facility and be bound by the rules of the association.

(D) The Applicants for industries, shall submit a statement waiving preferential status from each existing higher preference authority, if it exists, listed in paragraphs (2)(B)1., 2., or 3. of this rule for collection and treatment of industrial, process, and domestic wastewater as part of a new operating permit application.

(F) Application of Level 2 Authority. If a municipality or public sewer district wishes to provide wastewater collection and/or treatment services on a regional or watershed basis as outlined in paragraph (2)(B)2. of this rule, the entity shall—

1. Submit a preliminary request to the Missouri Clean Water Commission through the department to obtain higher authority;

2. Develop a plan, which includes, but not limited to:

A. A discussion of regional treatment service;

B. Capital improvements program;

C. Process to provide waivers when sewer connection is not available;

D. Approach to address permit compliance with facilities in the service area;

E. Community financial capability information; and

F. Defined service area map.

3. Obtain and maintain authority through ordinances to compel wastewater users and facilities to connect for management of wastewater flows. The ordinance requires the recipient to notify all potential users of service availability and that all users connect to the system within the timeframe provided in the notice of service availability. Submit a copy of the enacted ordinance.

4. Provide a public meeting prior to approval of the plan developed according to paragraph (2)(F)2. of the rule and the draft ordinance. Distribution of information and the publication of the notice of decision making should occur for at least thirty (30) days. Following the public meeting, provide a copy of the transcript, attendance log, recording, or other complete record to the department.

5. Submits a final request to the Missouri Clean Water Commission through the department, containing the fulfillment of paragraphs (2)(F)1.-4. of this rule, incorporating preliminary recommendations provided by the Missouri Clean Water Commission.

6. Staff shall review the plan and present recommendations to the Missouri Clean Water Commission for action.

(3) Antidegradation. Applicants seeking new or expanded discharges

shall submit an antidegradation review request.

(B) Public comment. The department shall place a public notice of the antidegradation determination on the department's website and allow the public an opportunity to provide comments for a minimum of thirty (30) days. The antidegradation determination may be revised as a result of comments received.

(C) Notification in writing. A final determination whether the antidegradation is applicable, approved, or denied shall be provided in writing to the applicant by the department.

(4) Facility Plans and Engineering Reports. Applicants seeking a construction permit shall submit a facility plan or engineering report unless otherwise designated by the department.

(A) Submit the engineering report and/or facility plan prior to submittal of the Construction Permit Application, including the following, as applicable:

1. A signed Facility Plan or Engineering Report. All facility plans and engineering reports are to be signed and sealed by a Missouri registered professional engineer, and contain the information in accordance with 10 CSR 20-8.

2. Identify the alternative technical manuals and design criteria utilized that are different from the design standards provided in 10 CSR 20-8.110 through 10 CSR 20-8.220.

3. Submit one (1) hard copy and an electronic version (in Portable Document Format (PDF) searchable format or department approved equivalent) for review.

4. For Engineering Reports,

A. Submit a plan of the existing and proposed sewers for projects involving new sewer systems and substantial additions to existing systems.

B. Submit a plan for projects involving construction or revision of pumping stations.

C. Provide the design basis and operating life.

5. For Facility Plans,

A. Submit an approved Water Quality Review and Antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3). For non-funded projects, information submitted as part of the Antidegradation Report does not have to be resubmitted with the facility plan.

B. Evaluate the feasibility of constructing and operating a facility with no discharge to waters of the state if the report is for a new or modified wastewater treatment facility.

C. Evaluate the economics of the project including alternatives to constructing a discharging system, including an evaluation of alternatives of wastewater irrigation or subsurface dispersal and connection to a regional wastewater treatment facility.

D. A geohydrological evaluation conducted by the department's Missouri Geological Survey, for all proposed new construction, new or major modification of earthen basins, new outfall locations, wastewater irrigation fields, and subsurface dispersal sites. Include any recommendations provided in the geohydrological evaluation.

(B) Engineering reports and/or facility plans are exempt for the following non-funded projects:

1. Disinfection equipment projects for treatment types promulgated in 10 CSR 20-8.190;

2. Projects exempted from construction permitting under subsection (5)(B) of this rule;

3. Sewer extensions permitted under the general construction permit provided in subsection (5)(C) of this rule;

4. Sewer projects that submit a Missouri registered professional engineer's Sewer Extension Design Certification with the permit application; and

5. Treatment plants and/or sewer extensions by a permittee with their own authority under section (6) of this rule, if they are not receiving department funding.

(5) Construction Permits.

(B) The following activities are exempt from construction permitting

when the activities meet the applicable standards in 10 CSR 20-2 through 10 CSR 20-9. Projects exempt from construction permitting may require professional engineering, as defined in section 327.181, RSMo:

1. Construction of a separate storm sewer;
2. Sewer extensions of one thousand feet (1,000') or less, including gravity sewers and/or force mains, with no more than one (1) pump station;
3. Construction of less than three thousand gallons per day (3,000 gpd) non-discharging lagoon systems;
4. Class II and smaller Animal Feeding Operations (AFO), as designated in 10 CSR 20-6.300;
5. Nondomestic discharges of process wastewater except discharges utilizing an earthen basin;
6. Stormwater best management practices, as defined in 10 CSR 20-6.200;
7. Industrial facilities connecting to a publicly owned wastewater treatment facility;
8. Treatment facilities evaluated and constructed under other department programs;
9. Systems adding common metal salts for phosphorus removal prior to existing liquid-solids separation and tertiary filtration;
10. Adding pre-engineered dechlorination equipment;
11. Solids processing equipment;
12. Like-for-like replacement (e.g., replacing eight-inch (8") pipe with eight-inch (8") pipe at the same location and grade, but material type may be different);
13. Outfall relocation within the same receiving stream, close proximity to the existing outfall, and upon review by the department;
14. Projects which the department has determined a construction permit is not required through written determination; and
15. Minor projects that change equipment or operations, but do not affect the overall capacity of the treatment or treatment type, including, but not limited to:
 - A. Internal piping changes;
 - B. pH adjustment;
 - C. Addition of solids storage tanks;
 - D. Screening equipment;
 - E. Grit removal equipment;
 - F. Administrative buildings;
 - G. Fences and access roads;
 - H. Flow measuring devices;
 - I. Mixing equipment;
 - J. Addition and/or improvement of sampling equipment;
 - K. Replacement of aeration equipment; and
 - L. Polymer additives.

(E) Demonstration Projects. Demonstration and pilot projects are innovative processes for which minimum design criteria is not well established. Demonstration or pilot projects shall be approved by the department prior to implementation of the new technology process or equipment.

1. Pilot project installations are those whose discharge is returned to the existing treatment facility. They are installed for a period of one (1) year and are exempt from obtaining a construction permit after obtaining department approval of the project evaluation. Refer to paragraph (1)(B)8. of this rule.

A. The project evaluation requirements are identified in 10 CSR 20-8.110(6). Pilot project installations are temporary and coordinated to ensure water quality is protected.

2. A demonstration project installation is a full scale innovative technology process. All antidegradation, operating permit, and construction permitting requirements apply.

A. Full scale demonstration projects in Missouri are not exempt from antidegradation or permit requirements.

B. The treatment process must be based on reasonable and sound engineering principles. Include a project evaluation of a technical performance demonstration of treating pollutants of concern in Missouri or locations with a climate similar to Missouri. The expect-

ed project evaluation details are outlined in 10 CSR 20-8.110(6) including review of design criteria.

C. An operating permit modification depends on the nature of the treatment process and will be determined during project review of the facility evaluation or plan.

3. The technology remains a demonstration process until documentation verifies consistent performance as designed for treatment of pollutants of concern for twelve (12) consecutive months at three (3) sites in Missouri or locations with a climate similar to Missouri. Design subsequent installations of verified treatment processes based on established design criteria.

(G) An application for a construction permit shall be made on forms provided by the department and include the following items:

1. A Construction Permit Application Form signed—
 - A. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by a delegated individual having overall responsibility for environmental matters at the facility;
 - B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or
 - C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by a delegated individual having overall responsibility for environmental matters at the facility;
2. Appropriate permit fee according to 10 CSR 20-6.011;
3. An electronic copy of the construction permit application and the information listed below in Portable Document Format (PDF) searchable format or department approved equivalent, along with one (1) paper copy for projects not seeking department funding or two (2) paper copies for projects seeking department funding under 10 CSR 20-4;
4. An approved Water Quality Review and antidegradation evaluation or determination for all new and expanding facilities, in accordance with 10 CSR 20-7.031(3);
5. A summary of design;
6. Detailed engineering plans and technical specifications signed, sealed, and dated by a Missouri registered professional engineer, which contain the information in accordance with 10 CSR 20-8, or other regulations as applicable;
7. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall; and
8. Other information necessary to determine compliance with the Missouri Clean Water Law and these regulations as required by the department.

(H) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

1. Applicants who fail to satisfy all department technical comments after two (2) certified comment letters, in a time frame established by the department, may have the application returned as incomplete and shall forfeit the construction permit application fees.

2. The department shall act after receipt of all documents and information necessary for a properly completed application, as listed in subsection (5)(G) of this rule above and including appropriate filing fees, and other supporting documents as necessary, by either issuing or denying the construction permit.

3. The applicant may submit a written request that additional time is needed prior to the conclusion of the set time frame. The department shall grant reasonable time extensions.

(I) Notification in writing. A final determination whether the construction permit is approved, approved with conditions, or denied with reason, shall be provided in writing to the applicant by the department within one hundred eighty (180) days.

(M) A site specific operating permit application and appropriate modification fee shall be submitted with the construction permit application to allow for public participation prior to the issuance of a construction permit. An operating permit application and modification fee is not required with the construction permit application

if—

1. Effluent limits and permit conditions have been established and the public notice and comment procedures were previously completed as part of an operating permit renewal;

2. Effluent limits were established as part of the Antidegradation Review and the required public notice and comment procedures were afforded in accordance with subsection (3)(B) of this rule;

3. No new effluent limits and conditions are needed to be established in the existing operating permit, such as a facility description change; or

4. Applicant is seeking a general permit.

(6) Supervised Programs.

(B) Request Submittal. Authorities requesting supervised program approval may submit a request to the department with the following information regarding the system, treatment plant, capacity, and current procedures. The department shall review the request, supporting documentation, and may ask for additional information if necessary to determine compliance with the Missouri Clean Water Law and these regulations. The department shall inform the permittee in writing of its decision. Approval may be granted for a period of up to five (5) years in the applicant's operating permit.

1. General Information Submittal:

A. A statement that the continuing authority employs or contracts a sufficient number of Missouri registered professional engineers and other staff qualified to review plans, issue permits, prepare reports, inspect construction, and enforce local and state requirements for each sewer extension and treatment plant project. If the continuing authority engages outside firms, provide a copy of the minimum responsibilities and expectations of the consulting engineer and what oversight the continuing authority will have. Reviews must be independent of the designer to avoid conflicts of interest;

B. A statement that the continuing authority employs or contracts a sufficient number of persons qualified to supervise construction or that the continuing authority has enforceable ordinances which require construction supervision and subsequent certification by a Missouri registered professional engineer;

C. A statement on how the continuing authority maintains permanent records of approvals, sewer extensions, and treatment plant construction project and the retention policy for reports and project documentation; and

D. A copy of the procedures followed in reviewing, approving, and inspecting the construction of collection systems by others and for handling the design and construction of collection systems to be built by its own staff or contractors delineating the responsibilities between the designers and the reviewers must be present.

2. For Collection System Approval, applicants shall submit the following information:

A. Standard technical specifications and typical detail drawing, prepared, signed, and sealed by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110. Standard technical specifications and detail drawings complying with 10 CSR 20-8.120 through 10 CSR 20-8.130, and all other necessary appurtenances;

B. An engineering report discussing the remaining capacity of the existing collection system, including each pump station, and the available capacity of the wastewater treatment facility serving each area. Refer to 10 CSR 20-8.110(4);

C. A current layout map, or maps, of the collection system showing street names, sewer line material types, sizes, and lengths, manholes, pump stations, force mains, air release valves, and other sewer appurtenances as necessary, or a detailed description of the continuing authority's mapping system and the procedures for updating the system;

D. A copy of the enacted ordinance enforcing the standard technical specifications and typical detail drawings.

3. For Treatment Plant Approval, applicants shall submit the fol-

lowing information:

A. A copy of procedures to be followed in reviewing, approving, and inspecting the construction of wastewater treatment facilities by others and for retaining as-built plans following completion of the project, prepared by a Missouri registered professional engineer, in accordance with 10 CSR 20-8.110;

B. A facility plan discussing existing treatment plant(s), along with a summary of design discussing the remaining capacity of each existing wastewater treatment facility. Refer to 10 CSR 20-8.110(5);

C. Standard specifications and typical appurtenance construction details;

D. Following completion of the project, retain as-builts to be available for review, upon request.

(C) Operating Permit. Supervised program approval shall be granted through the applicant's operating permit for a period of up to five (5) years. The operating permit may contain additional reporting requirements including, but not limited to, a summary report for an approved period.

1. Treatment plant authority.

A. Antidegradation. Submittal and approval of an antidegradation review is required prior to any construction that will increase facility capacity, add or increase pollutants of concern, or change receiving stream. Refer to section (3) of this rule.

B. Operating Permit Modifications. Submit applications for operating permit modifications, when applicable, at least one hundred eighty (180) days before the date the facility begins to receive wastewater, unless permission for a later date has been granted by the department.

C. Technologies not established or discussed in 10 CSR 20-8 are not allowed for the Treatment Plant Approval.

(D) Summary Report. A report summarizing the construction activities will be contained in the operating permit application renewal for reauthorization.

1. For facilities with Collection System approval:

A. Name of sewer extension;

B. Length of sewer and force main;

C. Capacity of each new or upgraded pump station, if applicable;

D. Date sewer extension permit is issued;

E. Date sewer extension construction is accepted;

F. The ultimate receiving wastewater treatment facility;

G. The remaining long term average capacity of each wastewater treatment facility; and

H. Upon request, detailed project information on design flow, leakage, deflection, and inspections.

2. For facilities with Treatment Plant approval:

A. The projects planned, ongoing, or completed;

B. The remaining long-term average capacity of each treatment facility;

C. As-builts for new or expanded treatment facilities; and

D. Documentation and engineering justification of new or expanded treatment facilities of design components, which at a minimum meet the requirements in 10 CSR 20-8, Minimum Design Standards.

(7) Operating Permits.

(B) Applications.

1. An application for an operating permit must be submitted on forms provided by the department. The applications may be supplemented with copies of information submitted for other federal or state permits. The application shall include:

A. A map showing the location of all outfalls, with scale, as well as a flowchart indicating each process which contributes to an outfall;

B. Appropriate permit fee according to 10 CSR 20-6.011;

C. An antidegradation review for new and expanding discharging facilities;

D. A geohydrological evaluation conducted by the department's Missouri Geological Survey for new and expanded facilities;

E. If appropriate, a variance petition, with the information detailed in section (15) of this rule; and

F. Engineering certification that the project was designed to meet the requirements of 10 CSR 20-8 for projects exempted from construction permitting requirements in section (5) of this rule.

2. All applications must be signed as follows:

A. For a corporation, by an individual having responsibility for the overall operation of the regulated facility or activity, such as the plant manager, or by an individual having overall responsibility for environmental matters at the facility;

B. For a partnership or sole proprietorship, by a general partner or the proprietor respectively; or

C. For a municipal, state, federal, or other public facility, by either a principal executive officer or by an individual having overall responsibility for environmental matters at the facility.

3. The permittee shall provide written notice to the department as soon as possible of any planned physical alterations or additions to the permitted wastewater treatment facility.

(C) Applications for renewal of site-specific operating permits must be received at least one hundred eighty (180) days either before the expiration date of the present site-specific operating permit or the date the facility begins to receive wastewater unless permission for a later date has been granted by the department. The department shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(D) For facilities seeking coverage under a general operating permit, the application for renewal shall be submitted according to section 644.051.10, RSMo.

(E) All reports required by the department shall be submitted and signed by a person designated in paragraph (7)(B)2. of this rule or a duly authorized representative, if—

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge occurs; and

2. The authorization is made in writing by a person designated in paragraph (7)(B)2. of this rule and is submitted to the department.

(8) Terms and Conditions of Permits.

(A) The following shall be incorporated as terms and conditions of all permits:

1. All discharges and solids disposal shall be consistent with the terms and conditions of the permit;

2. The permit may be modified or revoked after thirty (30) days' notice for cause including, but not limited to, the following causes:

A. A violation of any term or condition of the permit;

B. A misrepresentation or failure to fully disclose all relevant facts in obtaining a permit;

C. A change in the operation, size, or capacity of the permitted facility; and

D. The permit may be modified after proper public notice and opportunity for comment when a wasteload allocation study has been completed showing that more stringent limitations are necessary to protect the in-stream water quality;

3. The permit may not be modified so as to extend the term of the permit beyond five (5) years after its issuance;

4. Permittees shall operate and maintain facilities to comply with the Missouri Clean Water Law and applicable permit conditions and regulations.

5. The permittee, owner, and continuing authority shall allow the department or an authorized representative (including an authorized contractor acting as a representative of the department), upon presentation of credentials to, at reasonable times—

A. Enter upon permittee's premises in which a point source, water contaminant source, or wastewater treatment facility is located or in which any records are kept according to the terms and conditions of the permit;

B. Have access to, or copy, any records that are kept according to the terms and conditions of the permit;

C. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or

required under a permit; and

D. Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or Missouri Clean Water Law, any substances or parameters at any location.

6. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall give adequate notice to the department of the following:

A. Any new introduction of pollutants into the treatment facility from an indirect discharger which would be subject to Sections 301 or 306 of the Federal Clean Water Act if it were directly discharging those pollutants;

B. Any substantial change in the volume or character of pollutants being introduced into that treatment facility at the time of issuance of the permit; and

C. For purposes of this subparagraph, adequate notice includes information on the following:

(I) The quality and quantity of influent introduced into the treatment facility, and

(II) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the treatment facility;

7. If the permit is for a discharge from a publicly-owned treatment works, the permittee shall be able to identify any introduction of pollutants or substances into the facility that alone or in combination will cause—disruption of the treatment processes, violation of effluent standards in their operating permit, violation of water quality standards in the receiving stream as defined in 10 CSR 20-7.031, or classification of the residues of the treatment processes as hazardous waste as defined in 10 CSR 25-4.010. In addition, the permittee shall require any industrial user of the treatment facility to comply with the requirements of 10 CSR 20-6.100;

8. If a toxic effluent standard, prohibition, or schedule of compliance is established under Section 307(a) of the Federal Clean Water Act for a toxic pollutant in the discharge of permittee's facility and the standard is more stringent than the limitations in the permit, then upon notice to the permittee the more stringent standard, prohibition, or schedule shall be incorporated into the permit as a condition; and

9. When a continuing authority under paragraph (2)(B)1., 2., or 3. is expected to be available for connection, any operating permit issued to a permittee under this paragraph, located within the service area of the paragraph (2)(B)1., 2., or 3. facility, shall contain the following special condition: Permittee shall cease discharge by connection to a facility with an area-wide management plan according to subsection (2)(B) of this rule within the timeframe allotted by the continuing authority with its notice of its availability. The permittee shall obtain departmental approval for closure according to section (12) of this rule or alternate use of these facilities.

(9) Prohibitions. No permit shall be issued in the following circumstances:

(G) To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility shall—

1. Cause or contribute to the violation of water quality standards if the discharge is located in a segment that was an effluent limitation segment, prior to the introduction of the discharge from the new source or discharger; or

2. Exceed its pollutant load allocation if the discharge is into a water quality limited segment.

(11) Permits Transferable.

(A) Subject to subsection (2)(A), a construction permit and/or operating permit may be transferred upon submission to the department of an application to transfer signed by the existing owner and/or continuing authority and the new owner and/or continuing authority.

1. Until the time the permit is officially transferred, the original permittee remains responsible for complying with the terms and conditions of the existing permit.

2. To receive a transfer permit, the new owner and/or continuing

authority must complete an application according to section (5) and/or section (7) of this rule and demonstrate to the department that the new continuing authority agrees to be responsible for compliance with the permit.

3. The new owner and/or continuing authority shall be responsible for complying with the terms and conditions of the permit upon transfer.

(B) The department, within thirty (30) days of receipt of the application, shall notify the new applicant of its decision to revoke and reissue or transfer the permit.

(12) Closure of Treatment Facilities.

(D) Operating permits under section (7) of this rule or under 10 CSR 20-6.015 are required until all waste, wastewater, wastewater solids/sludges and any solid wastes have been disposed of in accordance with the closure plan approved by the department under subsection (12)(A) of this rule, and any disturbed areas have been properly stabilized.

(13) General Operating Permits.

(C) The department may require any person authorized by a general operating permit to apply for and obtain a site-specific operating permit. Any interested person may petition the department to take action under this subsection. Cases where a site-specific operating permit may be required, include, but are not limited to, the following:

1. The discharge(s) is a significant contributor of pollution which impairs the beneficial uses of the receiving water;

2. The discharger is not in compliance with the conditions of the general operating permit; and

3. A Water Quality Management Plan containing requirements applicable to these point sources is approved by the department.

(D) Any owner and continuing authority authorized by a general operating permit may request to be excluded from the coverage of the general operating permit by applying for a site-specific permit.

1. When a site-specific operating permit is issued to an owner and continuing authority otherwise subject to a general operating permit, the applicability of the general operating permit is terminated automatically on the effective date of the site-specific permit.

2. A source excluded from a general operating permit solely because it already has a site-specific permit may request that the site-specific permit be revoked and that it be covered by the general operating permit, if it meets all the requirements for coverage.

(14) Hydrostatic Testing. Persons discharging water used for the hydrostatic testing of new pipelines and storage tanks are exempt from permitting if the discharge is de minimis (less than one thousand (<1,000) gallons) or the person takes the following steps:

(B) Sampling and testing requirements. One (1) grab sample shall be taken per discharge during the first sixty (60) minutes of the discharge and be analyzed for the pollutants listed in (14)(A) of this rule as well as total discharge volume in gallons per day.

(C) Exception reporting. If any of the sampling results from the hydrostatic test discharge show any exceedance of (14)(A) limits, provide written notification, including the date of the sample collection, the analytical results, and a statement concerning the modifications in management practices that are being implemented to address the violation within five (5) days of notification of analytical results to the department.

(E) Any person who irrigates wastewater from a hydrostatic test may do so under this rule if the irrigation does not result in any discharge to waters of the state. The quality of the irrigated wastewater is not required to meet the limits in (14)(A).

(15) Variance Request Process.

(C) Provisional Variance.

1. A provisional variance is a short term, time limited reprieve from limitations, rules, standards, requirements, or order of the director because of conditions beyond the reasonable control of the permit-

tee, would result in an arbitrary or unreasonable hardship, and the compliance costs are substantial and reasonably certain.

2. In accordance with section 644.062, RSMo, any person or permittee may apply for a provisional variance for limitations, rules, standards, requirements, or orders from the department pursuant to sections 644.006 through 644.141, RSMo. A provisional variance may not be granted under this regulation for limitations, rules, standards, requirements, or orders from the department pursuant to other statutes. The application for a provisional variance shall include information in accordance with subsection (15)(A) of this rule.

3. The provisional variance is issued by the department and may be retroactively applied upon permittee request. If a provisional variance is granted, notice shall be given using the same method prescribed for operating permits issued by the department in 10 CSR 20-6.020. The department shall promptly notify the applicant of the decision in writing and file the decision with the Missouri Clean Water Commission. Granting of a provisional variance is documentation of the department's enforcement discretion. There is no public notice period prior to issuance of a provisional variance. If retroactively granted, the permittee shall submit appropriate modified reports (such as discharge monitoring or those prescribed in a permit) within twenty (20) days of the provisional variance issuance date.

4. Provisional variances shall not be granted for the following:

A. In the department's judgement said variance would endanger public health, cause significant harm to aquatic life or wildlife, result in damage to property, or other demonstrable and measurable harm to downstream interests;

B. In anticipation of federal approval of any changes to a state water quality standard;

C. From the requirement to obtain a permit for an activity, in accordance with 10 CSR 20-6 and Chapter 644, RSMo;

D. To allow an activity which would otherwise require a permit to begin before the department issues or denies a permit; or

E. To allow a facility to exceed a permit limitation while the department considers an application to modify the permit limitation.

5. A provisional variance may be issued for up to forty-five (45) days, and may be extended once for up to an additional forty-five (45) days. The appropriate length of the provisional variance shall be determined at the discretion of the department.

A. Provisional variances may be issued for periods less than forty-five (45) days, or terminated earlier than the length of time specified at issuance, at the permittee's request (assuming that the variance is no longer essential for compliance).

B. The provisional variance may be granted subject to conditions determined necessary by the department. In order to qualify for an extension, a demonstration that the conditions under which the previous variance were granted still exist or are substantially similar.

C. In no case shall a provisional variance be granted to the same facility for more than ninety (90) days within the same calendar year.

6. Should a facility apply for multiple provisional variances or a single variance for the maximum ninety (90) days allowed, a long term plan to eliminate the need for relief from the same limit, rule, standard, requirement, or order, subject to the restrictions set forth above, needs to accompany the request in order for the application to be considered complete.

7. If the provisional variance is issued for a delay of implementation of limitations, rules, standards, requirements, or orders from the department to correct a violation, section 644.042, RSMo, requires the applicant post a performance bond or other security to assure completion of the work covered by the variance. The proof of financial responsibility may be in the form of a surety bond, CD, or irrevocable letter of credit and be subject to the following:

A. The bond is signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri;

B. The bond remains in effect until the terms and conditions of the variance are met and rules and regulations promulgated pursuant

thereto are complied with;

C. It is on file with the department;

D. It is made payable to the department; and

E. If the bond, CD, or letter of credit is cancelled by the issuing agent, submit new proof of financial responsibility within thirty (30) days of cancellation, or the provisional variance will be cancelled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.011 Fees is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1629-1632). No changes have been made to the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, staff explained the proposed amendment and one (1) comment was made. Three (3) comments were made through the Regulatory Action Tracking System.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Darrin Whitlock requested the department change (1)(E) to only charge seasonal permits a partial fee because his cost of doing business should not be the same as someone that runs their business year round.

RESPONSE: The department appreciates this comment. The changes proposed in the rule amendment are administrative in nature. In order to revise the fee structure certain conditions outlined in section 644.057, RSMo, must be met. Section 644.057, RSMo, sets forth a stakeholder process whereby the Clean Water Commission can approve a new fee structure. No changes were made as a result of this comment.

COMMENT #3: Steve McGowan commented he was unable to view Appendix A to see if he should comment or not on the rule.

RESPONSE: The department appreciates this comment. This proposed amendment did not include Appendix A. This proposed

amendment removed reference to Appendix A, which was removed during the 2014 rulemaking. No changes were made as a result of this comment.

COMMENT #4: Kevin Wideman requested the department add a statement that says if a permit is not approved or denied within forty-five (45) days the cost of the permit will be reduced by ten percent (10%), if not approved or denied within sixty (60) days a reduction of twenty percent (20%) will be applied, and so on.

RESPONSE: The department appreciates this comment. The changes proposed in the rule amendment are administrative in nature. In order to revise the fee structure certain conditions outlined in section 644.057, RSMo, must be met. Section 644.057, RSMo, sets forth a stakeholder process whereby the Clean Water Commission can approve a new fee structure. No changes were made as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1632-1633). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Ms. Jeanne Heuser and Mr. Robert Brundage. Two (2) written comment were received.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Maisah Khan with Missouri Coalition for the Environment (MCE), Ms. Caroline Pufalt, Sierra Club Missouri Chapter, and Ms. Jeanne Heuser, citizen, had similar comments so they are being combined. All entities are concerned changes in 10 CSR 20-6.015 remove the requirement for a construction permit or

any review of engineering projects. Subsection (2)(A) appears to remove responsibility and therefore liability for no-discharge owners and their facility design, leaving it solely to operators who may only be hired as managers. (4)(A) and (B) remove references to fourteen (14) relevant rules. They oppose any changes that remove valuable institutional knowledge about the network of “No Discharge” rules that exist in the state regulatory framework. MCE is concerned that these changes may also make it more difficult for interested Missouri citizens to learn about “No Discharge” facilities, and the protections once afforded to communities from “No Discharge” facilities may be diminished. Ms. Heuser referenced #8 in the Regulatory Impact Report (RIR) which discusses short-term consequences, to support her comment. She has concerns about inefficiency and human error in overlooking rule requirements. Ms. Heuser also asked that #13 in the RIR be used as support to “not revise the rule,” as it states “inaction will have no effect on the regulated community and regulators.” Ms. Pufalt has concerns about the security of facility construction reviews and impacts on construction permits.

RESPONSE: The department agrees that maintaining “institutional” knowledge is an important aspect of any organization or business. While the permitting requirements may change over time, permits are issued based on current regulatory requirements. Executive Order 17-03 required all state agencies to review rules for ineffective, unnecessary, or unduly burdensome requirements. Portions of this regulation that are contained in other statutes and regulations are duplicative and unnecessary, therefore, have been removed. Removal of these duplicative sections referenced in this comment does not remove the duty to comply with those requirements contained in other state statutes and regulations. No changes have been made as a result of these comments.

COMMENT #3: Department staff noted a grammatical error in subsection (4)(B) as this should be (4)(A)

RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(B) was changed to (4)(A).

10 CSR 20-6.015 No-Discharge Permits

(4) Permits.

(A) Permit Conditions.

1. The department shall develop permit conditions containing limitations, monitoring, reporting, and other requirements to protect soils, crops, surface waters, groundwater, public health, and the environment.

2. The department may establish standard permit conditions and best management practices for land application facilities by following the public participation procedures under 10 CSR 20-6.020.

3. The department may establish a general permit for a category of similar facilities in accordance with 10 CSR 20-6.010(13).

4. Noncontiguous land application sites may be included in the operating permit for a process waste generator or contract hauler as determined appropriate by the department.

5. Whenever feasible or appropriate, all operating permit requirements under 10 CSR 20 Chapter 6 rules shall be incorporated into a single operating permit for each operating location.

6. Applications for permits shall include an engineer’s seal affixed to all engineering plans and engineering certifications.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1633–1635). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. Two (2) individuals commented during the public hearing. The department also received twelve (12) written comments during the public comment period.

PUBLIC COMMENTS:

COMMENT #1: Robert Brundage, Newman, Comley, and Ruth, submitted a comment related to the removal of section (8) which states “Appeals filed under sections (5) and (6) of this rule may contain a request for stay of the conditions appealed.” Mr. Brudage asks that should this portion of the rule be removed, that there would be opportunity for a permittee to seek a stay of an appealed permit.

RESPONSE: The proposed amendment specifies that appeals shall conform to the requirements of the administrative hearing commission 1 CSR 15-3.350. Subsection (2)(B) of this rule states that complaints may include a motion for stay. As a result, the department believes that a permittee still has the capability to seek a stay of an appealed permit. No changes were made to the rule as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #3: Ms. Jeanne Heuser, a resident from rural Moniteau County, commented during the public hearing on August 15, 2018 and expressed her concern for the reduction in public participation, specifically in reference to the removal of 10 CSR 20-6.020(1)(A)4. Ms. Heuser also submitted written comments to the same; thus, both the comment received during public hearing and the written comment stated that the current rule requires the public notice of renewed general permits for facilities that were found to be in significant non-compliance during the last permit cycle. The comment suggested that, in general, public participation in environmental processes should be increased rather than decreased.

RESPONSE: The department agrees that public participation is a fundamental and integral part of environmental protection. Should non-compliance be significant enough that a general permit does not provide adequate protection to either human health or the environment, state regulations allow the department to require specific entities to apply for a site-specific permit to further address non-compliance. Site-specific permits are required to undergo a public comment period for initial issuance and subsequent renewals. No changes were

made to the rule as a result of this comment.

COMMENT #4: Ms. Kathleen Dolson, Ms. Dana Gray, and Ms. Francine Glass, citizens, expressed their concern that changes in the rule, specifically the deletion of the sentence “Applications, draft permits, supporting documents and reports upon those documents shall be available to the public, except for those portions determined to be confidential,” will weaken the public’s ability to access information.

RESPONSE: The department does not believe that the removal of this sentence reduces the public’s access to information. The deleted language is restrictive in the sense that it specifies the types of documents that are available to the public. The proposed language removes the specificity and instead states that any information or records may be subject to public disclosure. The new language updates the rule to incorporate the requirements of Missouri Sunshine Law. No changes were made to the rule as a result of this comment.

COMMENT #5: Ms. Laurie Lakebrink and Ms. Arlene Sandler, citizens, stated they prefer no changes be made to this rule.

RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #6: Joyce Wright, citizen, stated “Don’t change 10 CSR 20-6.020.”

RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #7: C. Wulff, citizen, stated “Please do not change 10 CSR 20-6.020. Public access to information is imperative for our democracy.”

RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #8: Barry Leibman, citizen, stated “Please do not change this rule.”

RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amend-

ment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #9: Denise Baker, citizen, stated “Don’t change 10 CSR 20-6.020.”

RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. 10 CSR 20-6.020 has not been amended recently and there have been several statutory changes regarding appeals of permit conditions, abatement orders, permit denials, and variances since the last amendment that needed to be incorporated into the rule for consistency. The department further believes that changes to the rule provide clarity and uniformity while streamlining administrative processes for permitting. No changes were made to the rule as a result of this comment.

COMMENT #10: Maisah Khan, Missouri Coalition for the Environment, expressed concern that new language in subsection (3)(A) has “the effect of reducing transparency and public access to information.” The comment further requests that the language remain as it is, or the words “may be” be replaced with “is.”

RESPONSE: The department does not believe that the removal of this sentence reduces the transparency or public’s access to information. The deleted language is actually restrictive in the sense that it specifies the types of documents that are available to the public. The proposed language removes the specificity and instead states that any information or records may be subject to public disclosure. The words “may be” illustrates that not all information requests submitted to the department are subject to public disclosure such as information that is determined to be confidential. The new language updates the rule to incorporate the requirements of Missouri Sunshine Law. No changes were made to the rule as a result of this comment.

COMMENT #11: Ms. Caroline Pufalt, Sierra Club Missouri Chapter, indicated that they opposed suggested changes to this section. New language should read “Any information or records submitted obtained pursuant to Chapter 644, RSMo, is subject to public disclosure pursuant to Chapter 610 RSMo.” Main verb should be “is” instead of “may be.” The limits on public disclosure (confidentiality) are included with the reference cited.

RESPONSE: The department does not believe that the removal of this sentence reduces the transparency or public’s access to information. The deleted language is actually restrictive in the sense that it specifies the types of documents that are available to the public. The proposed language removes the specificity and instead states that any information or records may be subject to public disclosure. The words “may be” illustrates that not all information requests submitted to the department are subject to public disclosure such as information that is determined to be confidential. The new language updates the rule to incorporate the requirements of Missouri Sunshine Law. No changes were made to the rule as a result of this comment.

COMMENT # 12: Comments were received by department staff after the comment period closed regarding section (2) of the rule. The rule amendment proposes the replacement of existing language with a citation to federal regulation. The proposed modification does not include language regarding the applicability of later amendments which must accompany the citation per 536.031.4, RSMo. Additionally, staff observed a grammatical error in the amended language. The phrase “conform to the stipulations outline” should be “conform to the stipulations outlined.”

RESPONSE: The department acknowledges the omission and error of the language as proposed and appreciates the comment. Section

(2) has been updated accordingly.

10 CSR 20-6.020 Public Participation, Hearings, and Notice to Governmental Agencies

(2) Notice to Other Governmental Agencies. Notices to governmental agencies shall conform to the stipulations outlined in federal regulation 40 CFR 124.59 “Conditions requested by the Corps of Engineers and other government agencies,” January 4, 1989, as published by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 which is incorporated by reference and does not include later amendments or additions.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1635–1637). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. One (1) individual commented during the public hearing.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: changing 10 CSR 20-6.070(2)(E) by removing the word “will” and replacing with “shall.”

10 CSR 20-6.070 Groundwater Heat Pump Operating Permits

(2) Application.

(E) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 6—Permits**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.090 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1637–1642). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. One (1) individual commented during the public hearing.

PUBLIC COMMENTS:

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

10 CSR 20-6.090(2)(A)10. was changed by removing the previously added word “consider” and replacing with the initial phrase “shall be considered.”

10 CSR 20-6.090(2)(A)11. was changed by removing the previously added phrase “is defined as” and replaced it with the initial phrase “shall be.”

10 CSR 20-6.090(2)(A)11.A was changed by placing back the initial phrase “and shall be calculated.”

10 CSR 20-6.090(2)(A)11.D. was changed by removing the previously added word “will” and replacing with the initial word “shall.”

10 CSR 20-6.090(2)(A)13. was changed by removing the previously added word “will” in two (2) locations, and replacing with the initial word “shall” for both locations.

10 CSR 20-6.090(2)(A)14. was changed by removing the previously added word “will” and replacing with the initial word “shall.”

10 CSR 20-6.090(2)(E) was changed by removing the previously added word “will” and replacing with the initial word “shall.”

10 CSR 20-6.090(2)(H) was changed by removing the previously added word “will” and replacing with the initial word “shall.”

10 CSR 20-6.090(8)(D) was changed by removing the previously added word “will” and replacing with the initial word “shall.”

10 CSR 20-6.090(2)(A) was changed by adding “and shall” to ensure that it was understood to be a requirement.

10 CSR 20-6.090(2)(A)10. was changed to add “the applicant shall” to clarify that it is and has been the applicants responsibility to conduct the required activity.

COMMENT #2: Department staff noted a grammatical error in subparagraph (2)(A)11.C., and incorrect citation in paragraph (2)(A)20. Staff also noted an incorrect citation in paragraph (2)(A)29. Department staff also noted an incorrect citation in (2)(F). Department staff noted incorrect alpha-numeric language in paragraph (3)(B)4. Department staff noticed incorrect reference and alpha-numeric language in paragraph (3)(B)5. Department staff noticed incorrect references in subsection (3)(C). Staff noted incorrect references in (4)(D)1., 3., and 4. Department noted incorrect references in subparagraph (5)(C)1.B.

RESPONSE AND EXPLANATION OF CHANGE: Subparagraph (2)(A)11.C. has been corrected as well as the incorrect citation in (2)(A)20. and (2)(A)29. The alpha-numeric error in paragraph (3)(B)4. has been correct. The citation in (2)(F) has been corrected. The incorrect reference and alpha-numeric error have been corrected. The reference in subsection (3)(C) has been corrected. The reference (4)(D)1., 3., and 4. have been corrected. The incorrect references in (5)(C)1.B. have been corrected.

10 CSR 20-6.090 Class III Mineral Resources Injection/Production Well Operating Permits

(2) Application.

(A) An application for an operating permit shall be made for each injection/production well and shall include each of the following items. The application may be supplemented with copies of information submitted for other federal or state permits.

1. All items listed in 10 CFR 144.31(e);
2. Description of the process that will be used for the mineral extractions, including injection/withdrawal procedures;
3. Estimated depth of the well, casing lengths and weights, intervals to be cemented, and related well construction data as recommended by the office of the state geologist;
4. Maximum and average volume of injected fluids and injection pressure that will be used on a daily basis;
5. Appropriate application fee as listed in 10 CSR 20-6.011;
6. Recommendation and justification on the number and location of sampling wells by a registered professional engineer or a qualified geologist as defined by sections 256.501 and 256.503, RSMo;
7. Where injection is into a formation which contains water with less than ten thousand milligrams per liter (10,000 mg/l) total dissolved solids (TDS), monitoring wells shall be:

A. Completed into the injection zone and into any underground sources of drinking water (USDW) above the injection zone which could be affected by the mining operation;

B. Located in a fashion as to detect any excursions of injection fluids, process by-products, or formation fluids outside the mining area or zone; and

C. Located as not to be physically affected by a subsidence or catastrophic collapse;

8. Where injection is into a formation which does not contain water with less than ten thousand (10,000) mg/l TDS, no monitoring wells are necessary in the injection zone;

9. Where the injection wells penetrate an underground source of drinking water (USDW) in an area subject to subsidence or catastrophic collapse, an adequate number of monitoring wells shall be:

A. Completed into the USDW to detect any movement of injected fluids, process by-products, or formation fluids into a USDW; and

B. Located as not to be physically affected by a subsidence or catastrophic collapse;

10. In determining the number, location, construction and frequency of sampling of the monitoring wells, the following criteria shall be considered:

A. Population relying on the USDW affected or potentially

affected by the injection operation;

B. Proximity of the injection operation to points of withdrawal of drinking water;

C. Local geology and hydrology;

D. Operating pressures and whether a negative pressure is being maintained;

E. Nature and volume of the injected fluid, the formation water, and the process by-products; and

F. Injection well density;

11. Map(s) describing an area of review for each Class III injection/production well or group of wells, as determined by a registered professional engineer or a qualified geologist as defined by sections 256.501 and 256.503, RSMo. The area of review shall be that area the radius of which is determined by the lateral distance from a Class III injection/production well or perimeter of a group of wells in which the pressure in the injection zone may cause the migration of injection or formation, or both, fluid into an USDW or into an improperly constructed, plugged, or abandoned well or test hole.

A. The radius of the area of review may be calculated using a mathematical model (for example, modified Thesis equation) and shall be calculated for an injection time period at least equal to the expected life of the well(s). The owner or operator must demonstrate to the director that the mathematical model used and the calculated area of review are appropriate for the known hydrologic properties of the underlying formations.

B. A fixed radius around the well or the perimeter of a group of wells of not less than one-half (1/2) mile may be used. In determining the fixed radius, the following factors shall be taken into consideration: chemistry of injected and formation fluids, hydrogeology, population and groundwater use and dependence, and historical practices in the area.

C. If the area of review is determined by a mathematical model pursuant to subparagraph (2)(B)8.A. the permissible radius is the result of the calculation even if it is less than one-half (1/2) mile.

D. Nothing in this section shall prevent the director from imposing alternate areas of review when geologic or hydrologic conditions render a calculated or fixed area a potential threat to an underground source of drinking water;

12. Submit with the application a mapped and tabulated inventory of all known water supply, injection/production, abandoned and test wells, including field names or numbers and locations of the wells, public water systems, within the area of review and a separate tabulation of all the wells, which penetrate the injection zone listing each well's type, construction method, date drilled, location, depth, and record of plugging or completion, or both, including a description of all corrective action(s) proposed to be performed to render wells penetrating the injection zone sealed, plugged, or otherwise impervious to the migration of fluids into or between well bores, USDWs, or different aquifers. The applicant is responsible for the inventory and corrective action requirements of this section and shall extend every reasonable effort to locate all wells within the area of review of the applicant well(s);

13. A plan for plugging and abandonment. Where the plan meets the requirements of this paragraph, the director shall incorporate it into the permit as a condition. Where the director's review of an application indicates that the permittee's plan is inadequate, the director shall require the applicant to revise the plan, prescribe conditions meeting the requirements of this paragraph or deny the application. For purposes of this paragraph, temporary intermittent cessation of injection operations is not abandonment;

14. Prior to granting approval for the plugging and abandonment of a Class III well, the director shall consider the following information:

A. The type and number of plugs to be used;

B. The placement of each plug, including the elevation of the top and bottom;

C. The type, grade, and quantity of cement to be used; and

D. The method of placement of the plugs;

15. The permittee is required to maintain financial responsibility

and resources to close, plug, and abandon the underground injection operation in a manner prescribed by the director. The permittee must show evidence of financial responsibility to the director by the submission surety bond or other adequate assurance such as financial statements or other materials acceptable to the director;

16. Maps and cross-sections indicating the vertical limits of all USDWs within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

17. Maps and cross-sections detailing the geologic structure of the local area;

18. Generalized map and cross-sections illustrating the regional geologic setting;

19. Qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality as specified in subsection (1)(E). If the information is proprietary, an applicant, in lieu of the ranges in concentrations, may choose to submit maximum concentrations which shall not be exceeded. In this case the applicant shall retain records of the undisclosed concentrations and provide them upon request to the director as part of any enforcement investigation;

20. Proposed formation testing program to obtain the information required by paragraph (2)(H)4.;

21. Proposed stimulation program;

22. Schematic or other appropriate drawings of the surface and subsurface construction details of the well;

23. Plans, including maps, for meeting the monitoring requirements of subsection (4)(D);

24. Expected changes in pressure, native fluid displacement, and direction of movement of injection fluid;

25. Contingency plans to cope with all shut-ins or well failures so as to prevent the migration of contaminating fluids into the USDW;

26. A certificate that the applicant has assured, through a performance bond or other appropriate means, the resources necessary to close, plug, or abandon the well as required by paragraph (2)(B)19.;

27. The corrective action proposed to be taken under paragraph (2)(B)18.;

28. Where the injection zone is a formation which is naturally water-bearing, the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:

A. Fluid pressure;

B. Fracture pressure; and

C. Physical and chemical characteristics of the formation fluids;

29. Where the injection formation is not a water-bearing formation, only the information in subparagraph (2)(A)28.B. must be submitted;

30. Where the permittee becomes aware that s/he failed to submit any relevant facts in a permit application, or has submitted incorrect information in a permit application or in any report to the director, the permittee shall promptly submit the facts or information; and

31. Data sufficient to allow the department to carry out aquifer exemption procedures under the Safe Drinking Water Act, UIC program. The information shall be sufficient to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis for the amenability of the mining zone to the proposed mining method, and a timetable of planned development of the mining zone shall be considered by the director.

(E) If an application is incomplete or otherwise deficient, the applicant shall be notified of the deficiency and processing of the application may be discontinued until the applicant has corrected all deficiencies.

(F) Any person signing a document under subsection (2)(B) or (C) shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(H) Prior to granting approval for the operation of a Class III well, the director shall consider the following information:

1. All available logging and testing data on the well;

2. A satisfactory demonstration of mechanical integrity;

3. The anticipated maximum pressure and flow rate at which the permittee will operate;

4. The results of the formation testing program;

5. The actual injection procedures; and

6. The status of corrective action on defective wells in the area of review.

(3) Operating Permits.

(B) The director may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells—

1. Described and identified by location in permit application(s) if they are existing wells, except that the director may accept a single description of wells with substantially the same characteristics;

2. Located within the same well field, facility site, reservoir, project, or similar unit in the same state;

3. Operated by a single owner or operator;

4. Area permits specify—

A. The area within which underground injections are authorized; and

B. The requirements for construction, monitoring, reporting, operation, and abandonment for all wells authorized by the permit.

5. Area permits may authorize the permittee to construct and operate, convert, or plug and abandon wells within the permit area provided—

A. The permittee notifies the director at a time as the permit requires;

B. The additional well satisfies the criteria in subsection (3)(B) and meets the requirements specified in the permit under paragraph (3)(B)4; and

C. The cumulative effects of drilling and operation of additional injection wells are considered by the director during evaluation of the area permit application and are acceptable to the director.

(C) If the director determines that any well constructed pursuant to paragraph (3)(B)5. does not satisfy any of the requirements of subparagraphs (3)(B)5.A. and B., the director may modify or terminate the permit or take enforcement action. If the director determines that cumulative effects are unacceptable, the permit may be modified or terminated.

(4) Terms and Conditions of Permits.

(D) Monitoring requirements, at a minimum, shall specify—

1. Monitoring of the nature of injected fluids with sufficient frequency to yield representative data on its characteristics. Whenever the injection fluid is modified to the extent that the analysis completed in accordance with paragraph (2)(A)19. is incorrect or incomplete, a new analysis in accordance with paragraph (2)(A)19. shall be provided to the director;

2. Monitoring of injection pressure and either flow rate or volume semi-monthly, or metering and daily recording of injected and produced fluid volumes as appropriate;

3. Monitoring of the fluid level in the injection zone semi-monthly where appropriate and monitoring of the parameters chosen to measure water quality in the monitoring wells in accordance with paragraph (4)(D)1. semimonthly; and

4. Quarterly monitoring of wells in accordance with paragraph (4)(E)1.

(5) Prohibitions.

(C) New injection wells may not commence injection until construction is complete and—

1. The permittee has submitted notice of completion of construction to the director and—

A. The director has inspected or otherwise reviewed the new injection well and finds it is in compliance with the conditions of the permit; or

B. The permittee has not received notice from the director of the intent to inspect or otherwise review the new injection well within thirteen (13) days of the date of the notice in paragraph (5)(C)1. of this rule, in which case prior inspection or review is waived and the permittee may commence injection.

(I) No operation shall commence until corrective actions outlined in paragraph (2)(A)12. and those required by the department have been completed.

(8) Plugging and Abandonment.

(D) The director shall prescribe aquifer cleanup and monitoring where s/he deems it necessary and feasible to insure adequate protection of USDWs.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1642–1652). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) individual commented during the public hearing. The department also received two (2) written comments during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with

a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

(1)(B)11. includes the phrase "from the department" to ensure clarity on who grants the waiver. (1)(D)16.A. includes "as defined in section 644.016, RSMo" as a reference to the statute defines waters of the state.

COMMENT #2: Ms. Maisah Khan with Missouri Coalition for the Environment (MCE) stated the quality of our nation's waters are continuing to decline from non-point source pollution, and MCE believes that municipal separate storm sewer systems (MS4) permits in Missouri should continue to be strengthened.

RESPONSE: The department appreciates this comment and has worked to ensure that the rule amendments represent the minimum requirements needed to protect human health and environment consistent with the authority granted by the Missouri Clean Water Law and applicable federal regulations under the National Pollution Discharge Elimination System. No changes were made as a result of this comment.

COMMENT #3: Mr. Barry Leibman, citizen, stated "please do not change this rule."

RESPONSE: Executive Order 17-03 mandated that the department review and update rules to remove unnecessary or overly restrictive regulatory burden and improve clarity and consistency throughout. No changes were made to the rule as a result of this comment.

COMMENT #4: Department staff recognized a reference was incorrect in subparagraph (1)(B)13.C. Also noted was subparagraph (1)(D)10.C. and part (1)(D)10.C.(II). Also noted is subparagraph (1)(D)10.D. with an incorrect reference.

RESPONSE AND EXPLANATION OF CHANGE: The reference error in subparagraph (1)(B)13.C. has been corrected as well as subparagraph (1)(D)10.C. and part (1)(D)10.C.(II). The reference error in subparagraph (1)(D)10.D. was resolved.

10 CSR 20-6.200 Storm Water Regulations

(1) Storm Water Permits—General.

(B) Nothing shall prevent the department from taking action, including the requirement for issuance of any permits under the Missouri Clean Water Law and regulations, if any of the operations exempted should cause pollution of waters of the state or otherwise violate the Missouri Clean Water Law or these regulations. The following are exempt from storm water permit regulations:

1. Areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from permitted areas;

2. *De minimis* discharges as defined by the department in general permits or by the Clean Water Commission;

3. Recycling collection points which are covered in a manner which prevents contact with storm water, including run on;

4. Farmlands, domestic gardens, or lands used for sludge management where domestic sludge is beneficially reused and which are not physically located in the confines of the facility producing the sludge;

5. Agricultural storm water discharges and irrigation return flows;

6. Sites that disturb less than one (1) acre of total land area which are not part of a common plan or sale. Land disturbance activity on an individual residential building lot is not considered as part of the overall subdivision unless the activity is by the developer to improve the lot for sale;

7. Linear, strip, or ribbon construction or maintenance operations meeting one (1) of the following criteria:

A. Grading of existing dirt or gravel roads which does not increase the runoff coefficient and the addition of an impermeable surface over an existing dirt or gravel road;

B. Cleaning or routine maintenance of roadside ditches, sewers, waterlines, pipelines, utility lines, or similar facilities;

C. Trenches two (2) feet in width or less; or

D. Emergency repair or replacement of existing facilities as long as best management practices are employed during the emergency repair;

8. Mowing, brush hog clearing, tree cutting, or similar activities which do not grade, dig, excavate, or otherwise remove or kill the surface growth and root system of the ground cover;

9. Landfills which have received Missouri Department of Natural Resources approval to close and which are in compliance with any post-closure monitoring, management requirements, and deed restrictions, unless the department determines the facility is a significant discharger of storm water related pollutants;

10. Facilities built to control the release of only storm water are not subject to the construction permitting requirement of 10 CSR 20-6.010(4), provided that the storm water does not come in contact with process waste, process wastewater, or significant materials, and the storm water is not a significant contributor of pollutants;

11. Phase II municipal separate storm sewer systems (MS4) may request a waiver from the Department in accordance with 40 CFR part 122.32(c), December 8, 1999, as published by the Environmental Protection Agency (EPA) Docket Center, EPA West 1301 Constitution Avenue NW., Washington, DC 20004, are incorporated by reference. This rule does not incorporate any subsequent amendments or addition.

12. A regulated small MS4 may share the responsibility under the following:

A. A MS4 may develop an agreement with another entity to assist with satisfying the National Pollutant Discharge Elimination System (NPDES) permit obligations or with implementing a minimum control measure if:

(I) The other entity currently implements the control measure;

(II) The particular control measure, or component thereof, is at least as stringent as the corresponding permit requirement; and

(III) A MS4 that relies on another entity to satisfy some of the permit obligations specifies the condition of the agreement, including a description of the obligations implemented by the other entity. The permitted MS4 remains ultimately responsible for compliance with the permit obligations if the other entity fails to implement the control measure (or component thereof);

B. In some cases, the department may recognize, either in an individual permit or in a general permit that another governmental entity is responsible under a permit for implementing one (1) or more of the minimum control measures for a small MS4. Where the department recognizes these dual responsibilities, the department may not require the MS4 to include such minimum control measure(s) in their program. The MS4 permit may be modified to include the requirement to implement a minimum control measure if the other entity fails to implement it;

13. The director may waive the otherwise applicable requirements in a general permit for a storm water discharge from construction activities that disturb less than five (5) acres, but more than one (1) acre, where:

A. The value of the rainfall erosivity factor R in the Revised Universal Soil Loss Equation is less than five (5) during the period of construction activity. The rainfall erosivity factor is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997, which is incorporated in this rule by reference. Copies may be obtained from EPA's Water Resource Center, Mail Code RC4100, 401 M Street S.W., Washington, DC 20460. An operator must certify to the director that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five (5); or

B. A TMDL approved or established by the department or by the EPA that addresses the pollutant(s) of concern without the need

for storm water controls;

C. Waste load allocations are not needed on non-impaired waters to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of paragraph (1)(B)13. and subparagraph (1)(B)13.C. of this rule, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause or a potential cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the department that the construction activity will take place, and that storm water discharges will occur, within the drainage area addressed by the TMDL or by an equivalent analysis.

(D) Definitions.

1. Best management practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

2. BMPs for land disturbance. A schedule of activities, practices, or procedures that reduces the amount of soil available for transport or a device that reduces the amount of suspended solids in runoff before discharge to waters of the state. Types of BMPs for storm water control include, but are not limited to:

A. State-approved standard specifications and permit programs;

B. Employee training in erosion control, material handling and storage, and housekeeping of maintenance areas;

C. Site preparation such as grading, surface roughening, topsoiling, tree preservation and protection, and temporary construction entrances;

D. Surface stabilization such as temporary seeding, permanent seeding, mulching, sodding, ground cover including vines and shrubs, riprap, and geotextile fabric. Mulches may be hay, straw, fiber mats, netting, wood cellulose, corn or tobacco stalks, bark, corn cobs, wood chips, or other suitable material which is reasonably clean and free of noxious weeds and deleterious materials. Grasses used for temporary seeding shall be a quick growing species such as rye grass, Italian rye grass, or cereal grasses suitable to the area and which will not compete with the grasses sown later for permanent cover;

E. Runoff control measures such as temporary diversion dikes or berms, permanent diversion dikes or berms, right-of-way or perimeter diversion devices, and retention and detention basins. Sediment traps and barriers, sediment basins, sediment (silt) fence, and staked straw bale barriers;

F. Runoff conveyance measures such as grass-lined channels, riprap, and paved channels, temporary slope drains, paved flumes, or chutes. Slope drains may be constructed of pipe, fiber mats, rubble, Portland cement concrete, bituminous concrete, plastic sheets, or other materials that adequately will control erosion;

G. Inlet and outlet protection;

H. Streambank protection such as a vegetative greenbelt between the land disturbance and the watercourse. Also, structural protection which stabilizes the stream channel;

I. A critical path method analysis or a schedule for performing erosion control measures; and

J. Other proven methods for controlling runoff and sedimentation;

3. Copetitioner. A person with apportioned legal, financial, and administrative responsibility based on land area under its control for filing Part 1 and Part 2 of a state operating permit for the discharge of storm water from municipal separate storm sewer systems. A copetitioner becomes a copermitttee once the permit is issued.

4. Copermitttee. A permittee to a state operating permit that is responsible only for permit conditions relating to the discharge for which it is owner or operator, or both.

5. *De minimis* water contaminant source. A water contaminant source, point source, or wastewater treatment facility that is determined by the department to pose a negligible potential impact on waters of the state, even in the event of the malfunction of wastewater treatment controls or material handling procedures.

6. Field screening point. A specific location which during monitoring will provide representative information to indicate the presence of illicit connections or illegal dumping and quality of water within a municipal separate storm sewer system.

7. Illicit discharge. Any discharge to a municipal separate storm sewer that is not composed entirely of storm water, except discharges pursuant to a state operating permit, other than storm water discharge permits and discharges from fire fighting activities.

8. Incorporated place (in Missouri, a municipality). A city, town, or village that is incorporated under the laws of Missouri.

9. Landfill. Location where waste materials are deposited on or buried within the soil or subsoil. Included are open dumps and landfills built or operated, or both, prior to the passage of the Missouri Solid Waste Management Law as well as those built or operated, or both, since.

10. Large municipal separate storm sewer system. All municipal separate storm sewers that are either—

A. Located in an incorporated place with a population of two hundred fifty thousand (250,000) or more;

B. Located in the counties designated by the director as unincorporated places with significant urbanization and identified systems of municipal separate storm sewers;

C. Owned and operated by a municipality other than those described in subparagraph (1)(D)10.A. of this rule that are designated by the director as part of a system. In making this determination, the director may consider the following factors:

(I) Physical interconnections between the municipal separate storm sewers;

(II) The location of discharges from the designated municipal storm sewer relative to the discharges from municipal separate storm sewer described in subparagraph (1)(D)10.A. of this rule;

(III) The quantity and nature of pollutants discharged to the waters of the state;

(IV) The nature of the receiving waters; or

(V) Other relevant factors; and

D. The director, upon petition, may designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdiction, watershed, or other appropriate basis that includes one (1) or more of the systems described in subparagraph (1)(D)10.A. of this rule.

11. MS4 means:

A. A municipal separate storm sewer system.

12. Major municipal separate storm sewer system outfall (major outfall). A municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of thirty-six inches (36") or more (or its equivalent) or for municipal separate storm sewers that receive storm waters from lands zoned for industrial activity within the municipal separate storm sewer system with an outfall that discharges from a single pipe with an inside diameter of twelve inches (12") or more (or from its equivalent). Industrial activity areas do not include commercial areas.

13. Major outfall. A major municipal separate storm sewer outfall.

14. Major structural controls. Man-made retention basins, detention basins, major infiltration devices, or other structures designed and operated for the purpose of containing storm water discharges from an area greater than or equal to fifty (50) acres.

15. Medium municipal separate storm sewer system. All municipal separate storm sewers that are either—

A. Located in an incorporated place with a population of one hundred thousand (100,000) or more but less than two hundred fifty thousand (250,000), as determined by the latest decennial census by

the Bureau of Census; or

B. Owned and operated by a municipality other than those described in subparagraph (1)(D)15.A. of this rule and that are designated by the director as part of the system. In making this determination, the director may consider the following factors:

(I) Physical interconnections between the municipal separate storm sewers;

(II) The locations of discharges from the designated municipal separate storm sewer relative to discharges from the municipal separate storm sewers described in subparagraph (1)(D)15.A. of this rule;

(III) The quantity and nature of pollutants discharged to waters of the state;

(IV) The nature of the receiving waters;

(V) Other relevant factors; or

(VI) The director, upon petition, may designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdiction, watershed, or other appropriate basis that includes one (1) or more of the systems described in subparagraph (1)(D)15.A. of this rule.

16. Municipal separate storm sewer means a conveyance or system of conveyances including roads and highways with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, paved or unpaved channels, or storm drains designated and utilized for routing of storm water which—

A. Does not include any waters of the state as defined in section 644.016, RSMo.

B. Is owned and operated by the state, city, town, village, county, district, association, or other public body created by or pursuant to the laws of Missouri having jurisdiction over disposal of sewage, industrial waste, storm water, or other liquid wastes;

C. Is not a part or portion of a combined sewer system;

D. Is not a part of a publicly owned treatment works as defined in 40 CFR 122.2; and

E. Sewers that are defined as large or medium or small municipal separate storm sewer systems pursuant to paragraphs 10., 15., and 29. of this section, or designated under subsection (1)(B) of this rule.

17. Operator. The owner, or an agent of the owner, of a separate storm sewer with responsibility for operating and maintaining the effectiveness of the system.

18. Outfall. A point source as defined by 10 CSR 20-2.010 at the point where a municipal separate storm sewer discharges and does not include open conveyances connecting two (2) municipal separate storm sewers, pipes, tunnels, or other conveyances which connect segments of waters of the state and are used to convey waters of the state.

19. Overburden. Any material of any nature consolidated or unconsolidated that overlays a mineral deposit excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

20. Owner. A person who owns and controls the use, operation, and maintenance of a separate storm sewer.

21. Process wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

22. Receiving waters. Waters of the state as defined in this rule.

23. Recycling facilities. Locations where metals, paper, tires, glass, organic materials, used oils, spent solvents, or other materials are collected for reuse, reprocessing, or resale.

24. Regulated MS4 means:

A. A MS4 which serves a population of one thousand (1,000) or more within an urbanized area, or any MS4 located outside of an urbanized area serving a jurisdiction with a population of at least ten thousand (10,000) and a population density of one thousand (1,000) people per square mile or greater.

B. A MS4 which is designated by the department when it is

determined that the discharges from the MS4 have caused or have the potential to cause an adverse impact on water quality. An application shall be submitted within one hundred eighty (180) days of the designation by the department.

25. Runoff coefficient. The fraction of total rainfall that will appear at a conveyance as runoff.

26. Significant contributor of pollutants. A person who discharges or causes the discharge of pollutants in storm water which can cause water quality standards of the waters of the state to be violated.

27. Significant material or activity associated with industrial activity.

A. For the categories of industries identified in subsections (2)(A)–(C) of this rule, the term includes, but is not limited to, storm water discharged from industrial plant yards, immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility.

B. Significant materials include, but are not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation, Liability Act of 1980 (CERCLA); any chemical the facility is required to report pursuant to Section 313 of Title III of Superfund Amendments & Reauthorization Act of 1986 (SARA); fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

C. Material received in drums, totes, or other secure containers or packages which prevent contact with storm water, including run on, are exempted from the significant materials classification until the container has been opened for any reason. If the container is moved into a building or other protected area prior to opening, it will not become a significant material.

D. Empty containers which have been properly triple rinsed are not significant materials.

28. Small construction activity means:

A. Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

B. Any other construction activity designated by the department, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the United States.

29. Small municipal separate storm sewer system means:

A. Owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (CWA) that discharges to water of the United States.

B. Not defined as large or medium municipal separate storm sewer systems pursuant to paragraphs 10. and 15. of this subsection.

C. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as around individual buildings.

30. Small MS4 means:

A. A small municipal separate storm sewer system.

31. Storm water means storm water runoff, snowmelt runoff and surface runoff, and drainage.

32. Storm water discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw material storage areas at an industrial plant.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 6—Permits

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-6.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1652–1655). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) comment was received during the public hearing from Mr. Robert Brundage with Newman, Comley, and Ruth. The department received twelve (12) comment letters from individuals during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

Subsection (3)(B), "Buffer distances shall be in accordance with section 640.710, RSMo, unless exempted below:"

Subsection (3)(C), "Neighbor notice shall be conducted in accordance with section 640.715, RSMo."

Subsection (3)(H) "Secondary containments shall be installed in accordance with section 640.730, RSMo. Inspections shall be conducted in accordance with section 640.725, RSMo, in addition to the following:"

Paragraph (4)(A)5. was changed to remove the added word of "should" and replaced with the initial word "shall." Additionally, this subsection was changed to remove the added word "are" and

replaced with the initial phrase “shall be.”

COMMENT #2: Ms. Kathy Stehwien, citizen, stated that the department is only concerned about the rules and regulations in favor of these facilities. She noted that consideration should be given to the public who have to live around these facilities, especially with regard to how close the factories can be to a neighborhood, as well as odor issues.

RESPONSE: Section 640.710 RSMo. requires “...the department shall require at least but not more than the following buffer distances between the nearest confinement building or lagoon and any public building or occupied residence...” This statute does not allow the department to require a larger buffer distance. Air pollution and odor regulations are administered by the Air Pollution Commission. No changes were made as a result of this comment.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth, commented that page 1653 subsection (3)(B) (MoReg) implements the buffer distances required by section 640.710, RSMo. The introduction to this subsection has been rewritten to “Buffer distances are to be in accordance with section 640.710, RSMo.” The phrase “are to be” is confusing and poor grammar. It would be more clear to directly state “Buffer distances shall be implemented and maintained in accordance with section 640.710, RSMo.”

RESPONSE AND EXPLANATION OF CHANGE: The department has changed 10 CSR 20-6.300(3)(B) by removing “are to” and replacing with “shall.”

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth, commented that on page 1653 subsection (3)(C) Neighbor Notice Requirements (MoReg), the introduction is written in a confusing manner. He suggested it should be reworded as follows: “Neighbor notice shall be provided in accordance with the requirements of section 640.715, RSMo.” Mr. Brundage also suggested in paragraph (3)(C)1. that the word “Buffer” be inserted in front of “distances” and delete “are to be” to read as follows: “Buffer [d]istances shall be ~~are to be~~ measured from...”

RESPONSE AND EXPLANATION OF CHANGE : The department has change 10 CSR 20-6.300(3)(C) by removing “is to” and replacing with “shall.” Regarding the change requested for 10 CSR 20-6.300(3)(C)1., this language is repetitive as sections 640.710 and 640.715, RSMo, establish how neighbor notice distances are measured. Due to language being repetitive it was removed from the regulation to comply with Executive Order 17-03.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on the discussion of Annual Reports on page 1653 (MoReg). Mr. Brundage stated that during stakeholder meetings his clients recommended to maintain this section in the regulation for the convenience of their members to know what the annual reporting requirements are without having to resort to the federal code that takes more time and imposes more red tape. Furthermore, the introductory section of 40 CFR 122.42(e) includes an additional requirement not found in the current regulation concerning e-reporting. Is this requirement meant to be included and required by the year 2020?

RESPONSE: The deletion of repetitive requirements is one of the objectives of Executive Order 17-03. The department concurs that by removing repetitive requirements that permittees will need to consult another regulation for the requirements. The annual reporting requirements are also listed in all Confined Animal Feeding Operation (CAFO) operating permits. The e-reporting requirement currently in the regulation as 40 CFR 122.42(e) is incorporated by reference into this regulation. No changes were made as a result of this comment.

COMMENT #6: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1654, subsection (3)(H) Additional Requirements for Class IA CAFOs (MoReg). Mr. Brundage requested the introductory sentence for subsection (3)(H) should be rewritten

and inserted in subsection 1 as follows, “Class IA CAFOs shall perform inspections in accordance with requirements of section 640.725, RSMo.” He also requested that subsection 1, which includes a requirement to perform an inspection of the “structural integrity” of the collection system and containment structures, be removed. He stated that this is not required by the statute and should be deleted from this subsection. To require weekly structural integrity inspections of structures that have never suffered a catastrophic failure is overly burdensome. Mr. Brundage also suggested a rewrite of language in paragraph (3)(H)4. as follows: “Class IA CAFOs shall construct and maintain secondary containment structures in accordance with the requirements of section 640.730, RSMo.”

RESPONSE AND EXPLANATION OF CHANGE: The duty to comply with Class IA inspection requirements is contained in 640.725, RSMo. The language referenced in this comment is a citation as to the location of the requirements. The requirement of weekly inspections of the structural integrity of collection systems and containment structures is not a new requirement and is consistent with inspections required by Class IB and IC operations in 10 CSR 20-6.300(3)(D)C. As a result of one of Mr. Brundage’s comments the following language has been added to subsection (3)(H): “Secondary containments shall be installed in accordance with section 640.730, RSMo. Inspections shall be conducted in accordance with section 640.725, RSMo, in addition to the following:”

COMMENT #7: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1654 (MoReg), paragraph (4)(A)2., Design Standards and Effluent Limitations. He stated that paragraph 2. imposes effluent limits for subsurface waters. Since CAFOs are not allowed to discharge, it makes no sense to impose discharging effluent limits for subsurface waters. Therefore, this subsection should be deleted.

RESPONSE: CAFOs are point sources and are subject to both state operating permit and federal NPDES permits where appropriate in accordance with sections 640.710 and 644.026. As a part of being subject to NPDES regulations, effluent limitations are applicable given the allowance for discharge under certain situations; thus, CAFOs are appropriately given effluent limitations. In instances where these allowable discharges are to subsurface waters of the state effluent limitation are also applicable. No changes were made as a result of this comment.

COMMENT #8: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1655 (MoReg), section (7), CAFO Indemnity Fund. The heading for section (7) does not make sense (“in accordance with”). Instead, the heading could be rewritten as follows: “Concentrated Animal Feeding Operation Indemnity Fund.” Also, subsection (A) could be rewritten as follows: “Class IA CAFO shall participate in the CAFO indemnity fund in accordance with the terms and conditions of section 640.740, RSMo.”

RESPONSE AND EXPLANATION OF CHANGE: The department has changed 10 CSR 20-6.300(7) to only include the header “Concentrated Animal Feeding Operating Indemnity Fund for Class IA CAFO.” Additionally, because of this change the existing subsections (A) thru (D) have been bumped by one subsection to (B) thru (E) with the addition of a new subsection (A). The new subsection (A) now reads, “Participation in the Concentrated Animal Feeding Operating Indemnity Fund and its administration shall be in accordance with sections 640.740 through 640.747, RSMo.” Also important to note that the reference to sections 640.740 through 640.747 is in response to Comment #9 below.

COMMENT #9: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on page 1655 (MoReg), section (7), CAFO Indemnity Fund. Mr. Brundage stated the heading for section (7) says “in accordance with section 640.740, RSMo.” This citation is incomplete because the CAFO indemnity fund provisions are codified in sections 640.740 through 640.747 RSMo, not just 640.740 RSMo. This section does not say that CAFOs are required to submit

CAFO indemnity payments pursuant to the sections 640.740 through 640.747, RSMo, or that the department is required to administer the indemnity fund pursuant to sections 640.740 through 640.747, RSMo.

RESPONSE AND EXPLANATION OF CHANGE: The department has changed 10 CSR 20-6.300(7) to correctly reference sections 640.740 through 640.747, RSMo.

COMMENT #10: Ms. Francine Glass, citizen, Ms. Laurie Lakebrink, citizen, Ms. Denise Baker, citizen, C. Wulff, citizen, Ms. Joyce Wright, citizen, and Ms. Kathleen Dolson, citizen, had similar comments which are summarized as follows: "Please do NOT change this rule, 10 CSR 20-6.300. I am concerned that the proposed deletions in the rule remove the requirement for CAFOs to apply for permits 90 and 180 days prior to the start of operation and remove specific provisions for neighbor notice requirements."

RESPONSE: Executive Order 17-03 required all state agencies to review regulations for ineffective, unnecessary, or unduly burdensome requirements. Portions of this regulation that are contained in other statutes and regulations are duplicative and unnecessary therefore, have been removed. Removal of these duplicative sections does not remove the duty to comply with those requirements contained in other state statutes and regulations. There is no statutory requirement for the time frame for submittal of new operating permit applications. Neighbor notice requirement are contained in section 640.715, RSMo, and must still be complied with. No changes were made as a result of these comments.

COMMENT #11: Maisah Khan with Missouri Coalition for the Environment filed comments that in 10 CSR 20-6.300, there are deletions that remove timelines for Concentrated Animal Feeding Operations (CAFOs) to submit permits and deletions related to neighbor notice requirements. While the neighbor notice requirements appear in the statute 640.715, RSMo, it is imperative that these requirements be kept as part of the rule in order to ensure public participation and engagement in the process. Overall, MCE urges the DNR to maintain rules related to CAFO operations that protect public health and the environment. MCE believes that local communities and rural families in Missouri must have access to information about new CAFO permits, and they must have the opportunity to provide feedback on new CAFO operations.

RESPONSE: Executive Order 17-03 required all state agencies to review regulations for ineffective, unnecessary, or unduly burdensome requirements. Portions of this regulation that are contained in other statutes and regulations are duplicative and unnecessary therefore, have been removed. Removal of these duplicative sections does not remove the duty to comply with those requirements contained in other state statutes and regulations. There is no statutory requirement for the time frame for submittal of new operating permit applications. Neighbor notice requirement are contained in section 640.715, RSMo, and must still be complied with. No changes were made as a result of this comment.

COMMENT #12: Ms. Jeanne Heuser, citizen, stated that this is the primary CAFO rule that has been used for some years; she has an important familiarity with its contents. Now the rule will be confused by having to reference back and forth between state rules and statutes, as well as federal rules. It seems the most essential sections of the rule are eliminated by referencing to these other locations, where the descriptions are not as clearly defined as can be seen in 10 CSR 20-6.300(3)(B)1. To the citizen, it might seem there is an intentional obfuscation occurring, rather than a red-tape reduction. In addition, the deletion of 10 CSR 20-6.300(2)(E)2., appears to be an obvious attempt to allow CAFO permits to be rushed through the process.

RESPONSE: 10 CSR 20-6.300(3)(B)1. incorporates federal regulations into the state regulation to ensure compliance with the federal regulations.

COMMENT #13: Dana Gray, citizen, Arlene Sandler, citizen, Tom Abeln, citizen, Margaret O'Gorman, and Caroline Pufalt, Sierra Club Missouri Chapter, all had similar comments, which are summarized here:

You are removing the requirement in (2)(E)2. for CAFOs to apply for permits 90 and 180 days before starting operation and removing specific provisions for neighbor notice requirements. Don't change 10 CSR 20-6.300. These operations are killing our environment, our water, our animals, and ultimately, US!!!

RESPONSE: The department has developed regulations in 10 CSR 20-8.300 for the design of manure storage structures as well as operational requirements in 10 CSR 20-6.300. Both regulations impose a no-discharge effluent limitation requirement on CAFOs for the protection of surface water and groundwater. No changes were made as a result of these comments.

COMMENT #14: Department staff recognized a grammatical clarification was needed to subsection (3)(F) as well as in paragraph (4)(A)1.

RESPONSE AND EXPLANATION OF CHANGE: The grammatical clarification was made to subsection (3)(F) and paragraph (4)(A)1.

10 CSR 20-6.300 Concentrated Animal Feeding Operations

(3) Operating Permit Requirements. These requirements apply to all operating permits unless otherwise specified.

(B) Buffer Distances. Buffer distances shall be in accordance with section 640.710, RSMo unless exempted below:

1. When a CAFO proposes an expansion or modification but does not increase to a larger classification size, the buffer distance requirements shall be applicable only to the proposed confinement buildings and wastewater storage structures unless exempted by paragraph 2. of this subsection. Neighbor notice requirements of subsection (C) of this section shall apply to all existing and proposed confinement buildings and wastewater storage structures. If the proposed expansion or modification results in an increase to a larger classification size, the buffer distance and neighbor notice requirement of the larger classification size will apply to all existing and proposed confinement buildings and wastewater storage structures unless exempted by paragraph 4. of this subsection.

2. A concentrated animal feeding operation and any future modification or expansion of a CAFO is exempt from buffer distance requirements, but not neighbor notice requirements, when it meets all of the following criteria:

- A. The CAFO was in existence prior to June 25, 1996; and
- B. The CAFO does not expand to a larger classification size.

3. When existing animal feeding operations or concentrated animal feeding operations expand to a larger class size, the buffer distances shall not apply to the portion of the operation in existence as of June 25, 1996.

4. Buffer distances are not applicable to residences owned by the concentrated animal feeding operation or a residence from which a written agreement for operation is obtained from the owner of that residence. When shorter buffer distances are proposed by the operation and allowed by the department, the written agreement for a shorter buffer distance shall be recorded with the county recorder and filed in the chain of title for the property of the land owner agreeing to the shorter buffer distance.

(C) Neighbor Notice Requirements. Neighbor notice shall be conducted in accordance with section 640.715, RSMo.

1. Acceptable forms of proof for submittal that neighbor notice was sent include copies of mail delivery confirmation receipts, return receipts, or other similar documentation.

2. All concentrated animal feeding operations shall submit, as part of the operating permit application, an aerial or topographic map of the production area. The maps shall show the operation layout, buffer distances, property lines, and property owners within one and one-half (1 1/2) times the buffer distance.

3. The neighbor notice will expire if an operating permit application has not been received by the department within twelve (12) months of initiating the neighbor notice requirements.

(F) Annual Reports. This section is required for NPDES operating permits only. Annual reports shall comply with the federal regulation 40 CFR 122.42(e)(4), "Annual reporting requirements for CAFOs," Jan. 8, 2018, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which is hereby incorporated by reference and does not include later amendments or additions.

(H) Additional Requirements for Class IA CAFOs only. Secondary containments shall be installed in accordance with Section 640.730 RSMo. Inspections shall be conducted in accordance with Section 640.725, RSMo, in addition to the following:

1. Inspections shall also include the structural integrity of the collection system and containment structures along with any unauthorized discharges from the flush and wet handling systems. Records shall be maintained by the facility for a minimum of three (3) years on forms approved by the department.

2. Secondary containment structure(s) or earthen dam(s) shall be sized to contain a minimum volume equal to the maximum capacity of flushing in any twenty-four- (24-) hour period from all gravity outfall lines, recycle pump stations, and recycle force mains.

3. Class IA concentrated animal feeding operations (both new and those operations that wish to expand to Class IA size) are prohibited from the watersheds of the Current, Jacks Fork, and Eleven Point Rivers as described in 10 CSR 20-6.300(1)(B)9.D.

4. A record of inspections when the water level is less than twelve inches (12") from the emergency spillway shall be included with the operations annual report.

(4) Design Standards and Effluent Limitations.

(A) Effluent Limitations Applicable to All Class I CAFOs.

1. New and expanding CAFOs shall be designed and constructed in accordance with 10 CSR 20-8.300.

2. Effluent limits for subsurface waters shall be in accordance with 10 CSR 20-7.015(7)(E).

3. NPDES operating permits shall also comply with effluent limitations as set forth in 40 CFR Part 412, Subpart A through Subpart D, July 30, 2012, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, which are hereby incorporated by reference.

4. There shall be no discharge of manure, litter, or process wastewater to waters of the state from a CAFO as a result of the land application of manure, litter, or process wastewater to land application areas under the operational control of the CAFO, except where it is an agricultural storm water discharge. When manure, litter, or process wastewater has been land applied in accordance with subsection (3)(G) of this rule, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO is considered to be an agricultural storm water discharge.

5. A chronic weather event is a series of wet weather events and conditions that can delay planting, harvesting, and prevent land application and dewatering practices at wastewater storage structures. When wastewater storage structures are in danger of an overflow due to a chronic weather event, CAFO owners shall take reasonable steps to lower the liquid level in the structure through land application, or other suitable means, to prevent overflow from the storage structure. Reasonable steps may include, but are not limited to, following the department's current guidance on "Wet Weather Management Practices for CAFOs." These practices shall be designed specifically to protect water quality during wet weather periods. A discharge resulting from a land application conducted during wet weather conditions is not considered an agricultural stormwater discharge and is subject to permit requirements. The department will determine, within a reasonable time frame, when a chronic weather event is occurring for any given county in Missouri. The determination will be based

upon an evaluation of the one-in-ten (1- in-10) year return rainfall frequency over a ten- (10-) day, ninety- (90-) day, one hundred eighty- (180-) day, and three hundred sixty five- (365-) day operating period.

(7) Concentrated Animal Feeding Operation Indemnity Fund for Class IA CAFO.

(A) Participation in the Concentrated Animal Feeding Operation Indemnity Fund and its administration shall be in accordance with sections 640.740 through 640.747, RSMo.

(B) For facilities permitted after June 25, 1996, the annual fee shall commence on the first anniversary of the operating permit

(C) In no event shall a refund exceed the unencumbered balance in the Concentrated Animal Feeding Operation Indemnity Fund.

(D) Each payment shall identify the following: state operating permit number, payment period, and permittee's name and address. Persons who own or operate more than one (1) operation may submit one (1) check to cover all annual fees, but are responsible for submitting the appropriate information to allow proper credit for each permit file account.

(E) Annual fees are the responsibility of the permittee. Failure to receive a billing notice is not an excuse for failure to remit the fees.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 7—Water Quality

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-7.015 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1655-1668). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff explained the proposed amendment. Two (2) individuals commented during the public hearing. The department also received three (3) written comments during the public comment period.

PUBLIC COMMENTS:

COMMENT #1: Robert Brundage, Newman, Comley, and Ruth, on behalf of Doe Run, and Kevin Perry, REGFORM, provided written comments during the public comment period and verbal comments during the public hearing on the amendment to 10 CSR 20-7.015(1)(A)7. While they both mentioned that the proposed amendment to the rule was helpful as the definition now includes a reference to "inhibitions" in addition to "no observable effect concentrations," the proposed amendment should be updated to provide further clarity.

RESPONSE AND EXPLANATION OF CHANGE: The department is appreciative of the comments and also agrees that the amendment as proposed could be further clarified. As clarification of regulatory requirements is a significant component to the Red Tape Reduction Initiative, the definition of Toxic Unit-Chronic was updated for clarity.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the

word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

10 CSR 20-7.015(3)(B)2.C. was changed by removing the added “will” and replacing with the initial “shall.”

10 CSR 20-7.015(4)(C)2.C. was changed by removing the added “will” and replacing with the initial “shall.”

10 CSR 20-7.015(5)(B)2.C. was changed by removing the added “will” and replacing with the initial “shall.”

10 CSR 20-7.015(6)(A)4.B.(III) was changed by removing the added “will” and replacing with the initial “shall.”

10 CSR 20-7.015(8)(B)2.C. was changed by removing the added “will” and replacing with the initial “shall.”

10 CSR 20-7.015(4)(A) changed by replacing “are to be” with “must be.”

COMMENT #3: Mr. Kevin Perry, REGFORM, provided verbal comments during the public hearing and written comments during the public comment period regarding the increased monitoring for nutrients. Mr. Perry commented that amendment to the rule was done in association with Red Tape Reduction and the new monitoring requirements, specifically to industrial discharges, does not reduce regulation but rather increases it. Mr. Perry recommended that industrial discharges should be exempt from the requirement or, if not exempt, Mr. Perry proposed additional language to the rule to allow flexibility should a facility submit analytical data that would suggest that a discharge does not have significant amounts of the constituents present.

RESPONSE: The department understands that increased nutrient monitoring requirements for specific facilities may appear to be increasing regulatory burden and, at first glance, may not be in line with the spirit of Red Tape Reduction. However, the department believes that the overall regulatory burden will be reduced over time, especially as it pertains to potential nutrient effluent limitations in permits. By monitoring both influent and effluent for nutrients the department will be equipped with information about nutrient removal of wastewater treatment technologies and potential treatment optimization options that are possible without costly treatment plant upgrades. Furthermore, and in specific regard to industrial discharges, the current rule as well as the proposed amendment to the rule only requires nutrient monitoring for facilities that “typically discharge nutrients.” Should a facility demonstrate that there is no nitrogen or phosphorus in a discharge, nor is there expected to be based on disclosed processes, materials or products, permit writers are currently not including the nutrient monitoring requirements in operating permits. This permitting practice will not change once the rule is amended. Also, in many cases, industrial discharges don’t have an influent stream to monitor and as a result influent monitoring would not be required in the operating permit. The department believes there is sufficient flexibility in the existing and proposed amendment to minimize any undue burden on industrial dischargers. No changes were made as a result of this comment.

COMMENT #4: Ms. Jeanne Heuser, citizen, provided written comments stating just because there are supposedly few discharges to stream with only secondary contact recreation uses, short-term *E-coli*

standards should never be weakened.

RESPONSE: The proposed amendment to the short-term *E. coli* permit limits was not due to few discharges to streams with only secondary contact recreation uses. The change to the rule language was to bring the derivation of short term limits for the secondary contact recreation criteria in line with the derivation methodology that is utilized for whole body contact A and whole body contact B effluent limitations. The *E. coli* water quality criteria for secondary contact recreational uses remains unchanged and will continue to be implemented as a monthly geometric mean limitation in applicable operating permits, the revised derivation for short term limitations will not cause a negative impact to human health or the environment. No changes were made as a result of this comment.

COMMENT #5: Mr. Stanley Thessen, Missouri Farm Association (MFA), Incorporated, provided written comments stating the referenced subsection of (2)(B) in 10 CSR 20-7.015(9)(I) does not exist.

RESPONSE AND EXPLANATION OF CHANGE: The department is appreciative of the comment and while (2)(B) does in fact exist, the department agrees that the amendment as proposed should be corrected to indicate (2)(A) in place of (2)(B).

COMMENT #6: Mr. Stanley Thessen, MFA, Incorporated, provided written comments stating the referenced subsection of (8)(B) in 10 CSR 20-7.015(9)(I) list monitoring requirements for all waters, and does not list any facilities as referenced.

RESPONSE AND EXPLANATION OF CHANGE: The department is appreciative of the comment and agrees that the amendment as proposed should be corrected to indicate (8)(A) in place of (8)(B).

COMMENT #7: Mr. Stanley Thessen, MFA, Incorporated, provided written comments stating that the reference to precipitation should be eliminated from 10 CSR 20-7.015(9)(I)2. Construction of infrastructure adequate to meet this requirement and the cost of analyzing and disposing of stormwater is not sustainable.

RESPONSE: This rule does not require the collection of all precipitation. Rather, this rule requires that any precipitation that is collected in the operational area or collected in secondary containment areas shall be stored and disposed in a no-discharge manner or treated to meet applicable control technology referenced in subsection (9)(I) of the rule. No changes were made as a result of this comment.

COMMENT #8: Mr. Stanley Thessen, MFA, Incorporated, provided written comments stating that the reference to (1)(B)1.-6. does not exist as referenced in 10 CSR 20-7.015(8).

RESPONSE: A review of the proposed rule shows that 10 CSR 20-7.015(1)(B)1.-6. does exist. No changes were made as a result of this comment.

COMMENT #9: A department employee provided comments that the regulatory citation referenced in 10 CSR 20-7.015(9)(D)6. is (9)(D)4., but should be (9)(D)5.

RESPONSE: The department is appreciative of this comment and agrees that the listed citation is incorrect and should instead be (9)(D)5., as suggested.

10 CSR 20-7.015 Effluent Regulations

(1) Designations of Waters of the State.

(A) Definitions.

1. Acute Toxicity Test—a test used to determine the concentration of an effluent that causes an adverse effect (usually death) in a group of test organisms during a short-term exposure.

2. Allowable Effluent Concentration—the concentration of a toxicant or the parameter toxicity in the receiving water after mixing, sometimes referred to as the receiving water concentration or the in-stream waste concentration.

3. Chronic Toxicity Test—A short-term test, usually ninety-six

(96) hours or longer in duration, in which sub-lethal effects such as reduced growth or reproduction rates are measured in addition to lethality.

4. Representative sample—a small quantity whose characteristics represent the nature and volume of the whole as described in 40 CFR Part 122.48 September 26, 1984, as published by the Office of the Federal Register, National Archives and Records Administration, 700 Pennsylvania Avenue, Washington, DC 20408 which is hereby incorporated by reference and does not include later amendments or additions.

5. Toxic Unit—a measure of effluent toxicity generally expressed as acute toxicity unit or chronic toxicity unit. The larger the toxicity unit, the greater the toxicity.

6. Toxic Unit-Acute—one-hundred (100) times the reciprocal of the effluent concentration that causes fifty percent (50%) of the organisms to die in an acute toxicity test.

7. Toxic Unit-Chronic—one-hundred (100) divided by either the highest effluent concentration that causes no observable effect on the test organisms or the inhibition concentration (IC25) causing a twenty-five percent (25%) or more reduction in the reproduction or growth of the test organisms in a chronic toxicity test.

(3) Effluent Limitations for the Lakes and Reservoirs.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge sampling will be established in the permit.

2. Unless otherwise specified in the operating permit, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (3)(B)1. through 2. of this rule are minimum requirements.

(4) Effluent Limitations for Losing Streams.

(A) Prior to discharging to a losing stream, alternatives such as relocating the discharge to a gaining stream, and connection to a regional wastewater treatment facility must be evaluated and determined to be unacceptable for environmental and/or economic reasons.

(C) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge samples will be established in the permit.

2. Unless otherwise specified in the operating permit, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (4)(C)1. through 2. of this rule are minimum requirements.

(5) Effluent Limitations for Metropolitan No-Discharge Streams.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge sampling will be established in the permit.

2. Unless otherwise specified in the operating permits, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (5)(B)1. through 2. of this rule are minimum requirements.

(6) Effluent Limitations for Special Streams.

(A) Limits for Outstanding National Resource Waters as listed in Table D of 10 CSR 20-7.031 and Drainages Thereto.

1. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility to waters included in this section.

2. Discharges from wastewater treatment facilities, which receive primarily domestic waste, or from POTWs are limited as follows:

A. New releases from any source are prohibited;

B. Discharges from sources that existed before June 29, 1974, or if additional stream segments are placed in this section, discharges that were permitted at the time of the designation will be allowed.

3. Industrial, agricultural, and other non-domestic contaminant sources, point sources, or wastewater treatment facilities which are not included under subparagraph (6)(A)2.B. of this rule shall not be allowed to discharge. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner.

4. Monitoring requirements.

A. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

(I) The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit;

(II) Sludge sampling will be established in the permit.

B. Unless otherwise specified in the operating permit, sample types shall be:

(I) Grab samples for lagoons and recirculating media beds;

(II) Twenty-four- (24-) hour composite samples for mechanical plants; and

(III) Sludge samples shall be grab samples unless otherwise specified in the operating permit.

C. The monitoring frequency and sample types stated in subparagraphs (6)(A)4.A. through B. of this rule are minimum requirements.

(8) Effluent Limitations for All Waters, Except Those in Paragraphs (1)(B)1.-6. of This Rule. In addition to the requirements of section (9) of this rule, the following limitations represent the maximum amount of pollutants which may be discharged from any point source, water contaminant source, or wastewater treatment facility.

(B) Monitoring Requirements.

1. The department will develop a wastewater and sludge sampling program based on design flow and other site-specific factors. Sampling frequency shall not exceed once per day.

A. The department may establish less frequent sampling requirements for point sources that produce an effluent that does not exhibit high variability and consistently complies with the applicable effluent limit; and

B. Sludge sampling will be established in the permit.

2. Unless otherwise specified in the operating permit, sample types shall be:

A. Grab samples for lagoons and recirculating media beds;

B. Twenty-four- (24-) hour composite samples for mechanical plants; and

C. Sludge samples shall be grab samples unless otherwise specified in the operating permit.

3. The monitoring frequency and sample types stated in paragraphs (8)(B)1. through 2. of this rule are minimum requirements. (9) General Conditions.

(I) Industrial, agricultural, and other nondomestic water contaminant sources, point sources, or wastewater treatment facilities which are not included under subsections (2)(A) or (8)(A) of this rule—

1. These facilities shall meet the applicable control technology currently effective as published by the EPA in 40 CFR 405–471. Where there are no standards available or applicable, the department shall set specific parameter limitations using best professional judgment. The pH shall be maintained in the range from six to nine (6–9) standard units, except that discharges of uncontaminated cooling water and water treatment plant effluent may exceed nine (9) standard units, but may not exceed ten and one-half (10.5) standard units, if it can be demonstrated that the pH will not exceed nine (9) standard units beyond the regulatory mixing zone; and

2. All precipitation collected in the operational containment area or secondary containment area as well as process generated wastewater shall be stored and disposed of in a no-discharge manner or treated to meet the applicable control technology referenced in paragraph (9)(I)1. of this rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-8.020 Design of Small Sewage Works is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1669). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed rescission. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The Department did not receive any comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to

reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word, as suggested by this comment. Based on this review no changes have been made.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1669–1680). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The Department received three (3) comment letters during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) requested clarification that information provided to the department regarding available footprint for nutrient removal through this rule is considered non-binding. While MSD agrees that evaluation of nutrient removal capabilities is necessary, it is important that facilities retain their flexibility to respond to future regulatory and/or operational requirements. Any expansion footprint proposed for future treatment modifications submitted as part of the facility plan shall remain available to address any later identified need.

RESPONSE: To address the fate and transport of nutrients, these pollutants are being evaluated at the state and federal level. Evaluating future treatment needs during the facility plan phase for a project can potentially avoid costly future design hurdles. The rule language does not require the facility to use the available footprint for nutrient removal; it only ensures that sufficient footprint is available at the time of evaluation. No changes were made as a result of this comment.

COMMENT #2: Mr. Jay Hoskins with MSD commented that the title of subsection (8)(J) is unclear and requests clarification. If effluent quality is anticipated, it cannot already be achieved.

RESPONSE AND EXPLANATION OF CHANGE: The word "achieved" has been removed from the title of subsection (8)(J).

COMMENT #3: Ms. Sherri Stoner with Missouri Geological Survey (MGS) commented that there are discrepancies in text when a geohydrologic evaluation is needed and requested that we revise the rules to be consistent. Ms. Stoner noted discrepancies with subparagraph (5)(E)6.G., 10 CSR 20-8.200(2)(B), and 10 CSR 20-8.300(5)(A).

RESPONSE AND EXPLANATION OF CHANGE: Subparagraph (5)(E)6.G. of this rule and 10 CSR 20-8.200(2)(B) have been revised

to provide consistency.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word, as suggested by this comment. Based on this review the following changes have been made:

(7)(B)4. Clear and legible scaled site plans, drawings, or maps identifying all applicable site features that could impact the soil treatment area(s). Previously prepared or otherwise available drawings or maps such as a survey prepared by a Missouri registered professional surveyor; an aerial photograph; a United States Geological Survey topographic map with the proposed soil treatment area clearly delineated; a United States Department of Agriculture Natural Resources Conservation Services county soil survey map with the proposed soil treatment area clearly delineated; or a digital orthophotograph prepared from a geographical information system may be used. Must include the following on the drawings or maps:

(7)(B)5. A discussion of the findings and conclusions must include the following:

(7)(B)5. E. Frequency of flooding and ponding and the source of this information;

(7)(B)5. F. Relevant characteristics (e.g., bedrock outcrops, sink-holes or karst features) on the proposed site or in the surrounding area that may indicate vulnerability for surface water and groundwater contamination and the source of this information;

(7)(B)5. G. Factors affecting the soils ability to treat and hydrologically control effluent and the source of this information.

(8) Summary of Design. A summary of design shall accompany the plans and specifications and must include the following:

(9)(A) General.

(9)(A)1. Plan components must include the following components on all plan sheets:

(9)(A)2. Plan format must include clear and legible plans drawn to a scale that allows necessary information to be seen plainly. Blueprints and hand-drafted plans are not acceptable.

(9)(A)3. Plan contents must include detailed plans consisting of the following:

(9)(A)4. Hydraulic profile for all wastewater treatment facilities must be included; and

(9)(A)5. Plan for operation during construction must specify the procedure for operation during construction that complies with the plan outlined in paragraph (5)(E)15. and subsection (10)(C) of this rule.

COMMENT #5: The department received comments from Mr. Jesse Jefferson with regard to separation from habitation distance requirements for large facilities. Mr. Jefferson noted that the proposed distances will be either overly restrictive to small facilities, or not remotely appropriate for the larger facilities. The comment letter further stated that not having a specific numerical distance is not the same as not having the requirement for separation.

RESPONSE AND EXPLANATION OF CHANGE: 10 CSR 8.020, which is proposed for rescission, contained setback requirements for facilities with capacities less than twenty-two thousand five hundred

(22,500) gallons per day. The proposed amendment extended the fifty (50)-foot separation distance from 10 CSR 20-8.020 to all facilities regardless of capacity. The department is reverting to the current separation requirements. These requirements will be added to 10 CSR 20-8.110(5)(E)6.A., 10 CSR 20-8.140(2)(C)2., and 10 CSR 20-8.140 (2)(C)3. For facilities with capacities greater than twenty-two thousand five hundred (22,500) gallons per day, a greater separation distance from habitation may be appropriate.

COMMENT #6: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #7: Department staff commented that the emergency operation requirement in (5)(E)11. referenced the incorrect section of 10 CSR 20-8.140. Department staff also commented regarding a numerical edit in (7)(C)1.-7.

RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (5)(E)11. was corrected to reference 10 CSR 20-8.140(7)(A). The rule reference in (7)(C)1.-7. has been corrected.

10 CSR 20-8.110 Engineering—Reports, Plans, and Specifications

(1) Applicability. Engineering reports and facility plans and specifications shall be prepared based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(5) Facility Plan. Facility plans shall include the following, in addition to the information in section (4) of this rule:

(E) Detailed Alternative Evaluation. Include the following for the alternatives to be evaluated in detail:

1. Collection system revisions. Evaluate the proposed revisions to the existing collection system including adequacy of portions not being changed by the project;

2. Wet weather flows. Provide facilities to transport and treat wet weather flows in a manner that complies with federal, state, and local regulations;

3. Evaluate the no-discharge option and include it as an alternative in the facility plan. Also refer to 10 CSR 20-6.010(4)(A)5;

4. Evaluate the regionalization option and include it as an alternative in the facility plan;

5. Include the information outlined in 10 CSR 20-8.200(2) when the project includes wastewater irrigation or subsurface soil dispersal;

6. Site Evaluation. Consider the following criteria during site evaluation. Take appropriate measures to minimize adverse impacts when a site is critical with respect to the following items:

A. Consider compatibility of the treatment process with the present and planned future land use, including noise, potential odors, air quality, and anticipated solids processing and disposal techniques. Wastewater treatment facilities should be separate from habitation or any area likely to be built up within a reasonable future period and shall be separated in accordance with state and local requirements. Refer to 10 CSR 20-8.140(2)(C) for minimum separation distances;

B. Identify zoning and other land use restrictions;

C. Evaluate the accessibility and topography of the site;

D. Identify areas for future facility expansion;
E. For flood protection, follow the provisions listed in 10 CSR 20-8.140(2)(B);

F. Include geologic information, depth to bedrock, karst features, or other geologic considerations of significance to the project;

G. A request for a geohydrologic evaluation conducted by the department's Missouri Geological Survey is required in the following instances:

(I) All new wastewater treatment facilities to identify stream determinations (gaining or losing);

(II) All new outfalls or relocated outfalls;

(III) All new or major modifications to earthen basin structures. Earthen basin structures shall not be located in areas receiving a severe collapse potential rating. Earthen basin structures located in areas receiving a severe overall geologic limitation rating are reviewed on a case-by-case basis. Earthen basin structures located in areas receiving a moderate collapse potential rating with an appropriate engineering solution are reviewed on a case-by-case basis; and

(IV) All new features (e.g. wastewater irrigation sites, sub-surface soil dispersal sites);

H. Protection of groundwater including public and private wells shall be provided. When the proposed wastewater facilities will be near a water source or other drinking water facility, as determined by the Missouri Geological Survey or by the department's Public Drinking Water Branch, include an evaluation addressing the allowable distance between these wastewater facilities and the water source. Refer to 10 CSR 20-8.140(2)(C);

I. Determine the soil type and suitability for construction and depth to normal and seasonal high groundwater;

J. Submit a soil morphology analysis conducted by a qualified soil scientist for all subsurface soil dispersal systems. Refer to section (7) of this rule;

K. Identify the location, depth, and discharge point of any field tile or curtain drain in the immediate area of the proposed site;

L. Include the present and known future effluent quality and monitoring requirements;

M. Provide a discussion of receiving waterbody access for the outfall line; and

N. Include a preliminary assessment of site availability;

7. Engineering criteria. Provide the engineering criteria and assumptions used in the design of the project. Provide the basis for unit operation and preliminary unit process sizing;

8. Location Drawings. Provide drawings identifying the site of the project and anticipated location and alignment of proposed facilities;

9. Flow diagram. Provide a preliminary flow diagram of treatment facility alternatives, including all recycle flows;

10. Removal efficiencies. Provide estimated loadings to and removal efficiencies through each unit operation in addition to total removal efficiency and effluent quality (both concentrations and mass);

11. Emergency operation. Provide a discussion of emergency operation measures as outlined in 10 CSR 20-8.140(7)(A);

12. New and innovative technology. See section (6) of this rule. Provide a contingency plan, in the event that such new technology fails to meet the expected performance;

13. Nutrient removal. Provide a discussion of nutrient removal capabilities, including the footprint available for expansion or treatment facility modifications necessary for nutrient removal for each alternative;

14. Solids. Include the solids handling and disposal alternatives considered and method selected consistent with the requirements of 10 CSR 20-8.170 and any conditions in the NPDES permit;

15. Treatment during construction. Develop a plan for the method and level of treatment (including solids processing, storage, and disposal) to be achieved during construction and include it in the facility plan. Refer to paragraph (9)(A)5. and subsection (10)(C) of this rule;

16. Cost estimates. Present cost estimates for capital construc-

tion cost, annual operation and maintenance cost (including basis), and a twenty (20)-year present worth cost for each alternative;

17. Environmental review. Include any additional environmental information meeting the criteria in 10 CSR 20-4.050, for projects receiving funding through the state grant and loan programs; and

18. Water quality reports. Submit all reviews, studies, or reports in accordance with 10 CSR 20-7, Water Quality; and

(7) Soils Report.

(B) Soils Report. The soils report resulting from the investigation shall include the following information:

1. A copy of each soil profile description;

2. A description of all drainage features, rock outcrops, erosion, and other natural features that may influence the soil treatment area;

3. An evaluation of any identified limiting conditions or geologic risk factors affecting the soil's ability to treat and disperse effluent, such as karst features, dense tills, clay pans, and fragipans;

4. Clear and legible scaled site plans, drawings, or maps identifying all applicable site features that could impact the soil treatment area(s). Previously prepared or otherwise available drawings or maps such as a survey prepared by a Missouri registered professional surveyor; an aerial photograph; a United States Geological Survey topographic map with the proposed soil treatment area clearly delineated; a United States Department of Agriculture Natural Resources Conservation Services county soil survey map with the proposed soil treatment area clearly delineated; or a digital orthophotograph prepared from a geographical information system may be used. The following shall be included on the drawings or maps:

A. The location of all soil observation pits with the extent of different soils clearly delineated;

B. Any existing or proposed dwellings and structures;

C. Any site disturbances such as excavated or fill areas, existing roadways, and other hardscapes and proposed hardscapes, or related site disturbances;

D. Location of all public and private wells, abandoned wells, or geothermal systems, and surface water features that could either influence or be impacted by the proposed soil treatment area. For minimum separation distances, follow the provisions listed in 10 CSR 20-8.140(2)(C);

E. North orientation arrow;

F. Identification of areas with conditions that would prohibit, limit, or adversely impact the siting of a soil treatment area including, but not limited to: sinkholes, wetland vegetation, bedrock outcrops, areas with a slope greater than fifteen percent (15%), and existing or abandoned field or drainage tiles;

G. Identification of known existing, proposed, and observed easements and right-of-ways; and

5. A discussion of the findings and conclusions must include the following:

A. Available area for the soil treatment area;

B. Depth to limiting layers (e.g., water table, fragipan, bedrock) and the source of this information;

C. Proposed application (loading) rates that take into consideration the drainage and permeability of the soils and the distance to the limiting layer.

D. The source of the application rates for each soil horizon within the specific soil description;

E. Frequency of flooding and ponding and the source of this information;

F. Relevant characteristics (e.g., bedrock outcrops, sinkholes or karst features) on the proposed site or in the surrounding area that may indicate vulnerability for surface water and groundwater contamination and the source of this information; and

G. Factors affecting the soils ability to treat and hydrologically control effluent and the source of this information.

(C) Imported Soils. When a facility is importing soils for the sub-surface soil dispersal systems, the following shall be specified:

1. Physical characteristics that are uniform in texture, structure, and pore space;

2. Transportation methods that ensures uniformity and consistency of the physical characteristics as close as possible to the original state upon delivery;

3. A sandy to loamy material, with less than ten percent (10%) clay and less than fifteen percent (15%) organic debris present;

4. Methods for removal of the organic layer;

5. No compaction of imported soil;

6. Placement in small "lift" increments of four to six inches (4"-6") instead of one (1) thick layer; and

7. Native soil is to be used for the vertical separation for the subsurface soil dispersal systems with the fill for the cap being imported soils.

(8) Summary of Design. A summary of design shall accompany the plans and specifications and must include the following:

(J) Anticipated effluent quality.

(9) Plans.

(A) General.

1. Plan components must include the following components on all plan sheets:

A. A suitable title block showing the name of the project, owner, and continuing authority (refer to 10 CSR 20-6.010(2) and 20 CSR 2030-2.050);

B. Scale ratios for mechanical drawings;

C. Bar scales for aerial maps;

D. A north arrow;

E. Datum used; and

F. Sheet numbers.

2. Plan format must include clear and legible plans drawn to a scale that allows necessary information to be seen plainly. Blueprints and hand-drafted plans are not acceptable.

3. Plan contents must include detailed plans consisting of the following:

A. Plan views, elevations, sections, and supplementary views, which together with the specifications and general layouts, provide the working information for the contract and construction of the facilities;

B. Dimensions and relative elevations of structures, the location and outline form of equipment, location and size of piping, water levels, and ground elevations;

C. All known existing structures and utilities, both above and below ground, that might interfere with the proposed construction or require isolation setback, particularly water mains and water supply structures (e.g., wells, clear wells, basins), gas mains, storm drains, and telephone, cable, and power conduits. Show the location of all existing and proposed water supply structures located within five hundred feet (500') of the proposed or existing wastewater treatment facility; and

D. Locations and logs of test borings, where applicable. Include test boring logs on the plans or in the specifications as an appendix.

4. Hydraulic profile for all wastewater treatment facilities must be included; and

5. Plan for operation during construction must specify the procedure for operation during construction that complies with the plan outlined in paragraph (5)(E)15. and subsection (10)(C) of this rule.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.120 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1680-1685). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Five (5) comments were received during the public hearing from Mr. Trent Stober with HDR Engineering, two (2) comments were received from Mr. Robert Brundage with Newman, Comley, and Ruth, and two (2) comments were received from Ms. Jeanne Heuser. The department received two (2) comment letters during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that according to the proposed language in subsection (4)(C), cleanouts on a pipe larger than eight inches (8") would be required to have a diameter equal to the pipe's diameter (i.e. a four-foot diameter pipe would have a four-foot diameter cleanout). MSD proposed language to clarify cleanout size requirements.

RESPONSE: Subsection (4)(C) was revised prior to public notice to clarify language regarding cleanout size requirements. No changes were made as a result of this comment.

COMMENT #2: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield suggested reinstating the minimum pipe size requirements and minimum pipe slope requirements. Mr. Errin Kemper with the city of Springfield also requested that language for minimizing solids deposition be reinstated in the rule.

RESPONSE AND EXPLANATION OF CHANGE: Reinstating the minimum pipe size and slope requirements would not be reasonable for all facilities and scenarios in Missouri. A minimum velocity requirement has been added to paragraph (3)(A)1. to ensure that pipes are sized appropriately and that solids deposition is minimized. Other recommended values for pipe sizing and slopes will be included as recommendations in a Design Guide document, which will be finalized in late 2018.

COMMENT #3: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield suggested including leakage test requirements regardless of pipe material, with PVC sewer pipe twenty-seven inches (27") or less in diameter specifically mentioned.

RESPONSE: Section 644.026(12), RSMo, states that manholes and polyvinyl chloride (PVC) pipe used for gravity sewers and with a diameter no greater than twenty-seven inches shall not be required to be tested for leakage. Since statutes override rules, we must comply with the statute. No changes were made as a result of this comment.

COMMENT #4: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield suggested reinstating minimum manhole diameters.

RESPONSE AND EXPLANATION OF CHANGE: Minimum manhole diameters have been reinstated into the rule in subsection (4)(C).

COMMENT #5: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield recommended reinstating manhole spacing requirements, but allowing for longer runs between manholes if sufficient justification is provided.

RESPONSE AND EXPLANATION OF CHANGE: A requirement that manholes be installed with appropriate spacing to allow

for sufficient cleaning and maintenance has been added at paragraph (4)(A)4. Recommended manhole spacing distances will be included in a Design Guide document, which will be finalized in late 2018.

COMMENT #6: Mr. Trent Stober with HDR Engineering commented that the requirement for installation per manufacturer's recommendation at subsection (3)(A) should be removed because an engineer may disagree with the recommendations.

RESPONSE AND EXPLANATION OF CHANGE: The requirement to comply with the appropriate manufacturer's recommendations and installation procedures has been removed from subsection (3)(A), and some of the previous language addressing installation has been reinstated.

COMMENT #7: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.120(1) has also been revised.

COMMENT #8: Mr. Errin Kemper with the city of Springfield requested that language be added to section (1) stating that the requirements apply to all public sewerage works proposed to be newly constructed or altered in a manner to increase sewer capacity.

RESPONSE: This regulation is applicable to all wastewater systems utilizing gravity sewers. Existing systems are held to the standards that were in place at the time of construction. No changes were made as a result of this comment.

COMMENT #9: Mr. Errin Kemper with the city of Springfield requested that language that was removed regarding depth and buoyancy requirements for sewers be reinstated.

RESPONSE AND EXPLANATION OF CHANGE: Subparagraphs (3)(A)2. and (3)(A)3. have been revised to include depth and buoyancy requirements.

COMMENT #10: Mr. Errin Kemper with the city of Springfield requested that the language pertaining to manholes at changes in pipe size be reinstated.

RESPONSE: The proposed rule includes a requirement at paragraph (4)(A)2. that manholes be installed at all changes in size. Details about the design of manholes at changes in pipe size will be included in a Design Guide document, which will be finalized in late 2018. No changes were made as a result of this comment.

COMMENT #11: Mr. Errin Kemper with the city of Springfield recommended retaining and revising language regarding video inspections of rehabilitated sewer after installation.

RESPONSE: The language regarding video inspections in the existing rule is a recommendation and not a requirement. This recommendation will be retained in a Design Guide document, which will be finalized in late 2018. No changes were made as a result of this comment.

COMMENT #12: Mr. Errin Kemper with the city of Springfield recommended requiring more stringent leakage test requirements in subparagraph (3)(C)2.A. to not exceed fifty (50) gallons per inch of pipe diameter per mile per day regardless of pipe material instead of one hundred (100) gallons per inch of pipe diameter per mile per day.

RESPONSE: Variations in city-specific requirements are expected with some being more stringent than the state regulations. Cities may implement more stringent leakage requirements if they choose. No changes were made as a result of this comment.

COMMENT #13: Mr. Errin Kemper with the city of Springfield recommended reinstating the requirements for drop pipes in manholes. **RESPONSE:** Paragraph (4)(B)1. has been revised to reinstate when drop pipes are required for manholes. More specific details about the design of drop pipes will be included as recommendations in a Design Guide document, which will be finalized in late 2018.

COMMENT #14: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: incorporations by reference in sections (3) and (4) of the rule.

COMMENT #15: Ms. Jeanne Heuser of Jamestown, Mo., stated that a representative from the City of Springfield made a comment at the public hearing about this rule, expressing concern about the changes proposed. He believed it limited human health protections compared to the original. Ms. Heuser stated that she trusts the opinion from someone well-versed in this work in the community. Ms. Heuser said that the rush to make changes and hit an arbitrary goal of reductions is interfering with having a thoughtful process, and is putting the public at risk.

RESPONSE: The department appreciates the concerns Ms. Heuser raised with respect to the protection of public health. The proposed changes establish minimum design standards for the protection of the environment and public health. Where appropriate, comments from the City of Springfield have been incorporated. In addition, engineering plans and specifications are required to be sealed by a Missouri registered engineer for all permitted facilities, whether a construction permit is required or not. No changes have been made as a result of this comment.

COMMENT #16: Ms. Jeanne Heuser of Jamestown, Mo., stated that these specific rules are so critical to human and environmental health in Missouri that the status quo should remain. Ms. Heuser said that we must have a more thoughtful process with additional stakeholders who have the time to understand the proposed changes and carefully consider the ramifications of the proposed changes.

RESPONSE: With respect to 10 CSR 20-8, the department has conducted many stakeholder meetings over the last four years. In addition to regulatory minimum design standards for the protection of public health and environment, the Department will also maintain a Design Guide document, which will be finalized in late 2018, to ensure that designs are complete with regard to aspects of design that do not directly affect public health and the environment. No changes have been made as a result of this comment.

COMMENT #17: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste

management systems were updated for consistency.

10 CSR 20-8.120 Gravity Sewers

(1) Applicability. Wastewater systems that utilize gravity sewers shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Details of Design and Construction.

(A) Installation. Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Requirements shall be set forth in the specifications for the pipe and methods of bedding and backfilling thereof, so as not to damage the pipe or its joints, impede cleaning operations, and future tapping, nor create excessive side fill pressures and ovalation of the pipe, nor seriously impair flow capacity.

1. Slope. All sewers shall be designed and constructed to give mean velocities, when flowing full, of not less than two feet (2') per second.

2. Depth. All sewers shall either be covered with at least thirty-six inches (36") of soil, or sufficiently insulated with other material to prevent freezing and to protect them from superimposed loads.

3. Buoyancy. Buoyancy of sewers shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated.

(C) Joints and Infiltration.

1. Service connections. Service connections to the sewer main shall be watertight and cannot protrude into the sewer.

2. Leakage tests. Leakage tests shall be specified for gravity sewers except polyvinyl chloride (PVC) pipe with a diameter of twenty-seven inches (27") or less.

A. Water (hydrostatic) test. The leakage exfiltration or infiltration shall not exceed one hundred (100) gallons per inch of pipe diameter per mile per day for any section between manholes of the system. An exfiltration or infiltration test shall be performed with a minimum positive head of two feet (2'). The exfiltration or infiltration test shall conform to the test procedure described in ASTM C969 – 17 *Standard Practice for Infiltration and Exfiltration Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines*, as approved and published April 1, 2017, for precast concrete pipe. This standard shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

B. Air test. The air test shall conform to the test procedure described in ASTM C1103 – 14 *Standard Practice for Joint Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines*, as approved and published November 1, 2014, for concrete pipe twenty-seven inches (27") or greater in diameter, and ASTM F1417 – 11a(2015) *Standard Practice for Installation Acceptance of Plastic Non-pressure Sewer Lines Using Low-Pressure Air*, as approved and published August 1, 2015, for plastic, composite, and ductile iron pipe. These standards shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

(D) Bore or Tunnel. Where casing pipe is utilized it shall be constructed of steel with welded joints conforming to AWWA C200-17 *Steel Water Pipe, 6 In. (150 mm) and Larger*, as approved and published August 1, 2017, or ductile iron pipe with mechanical joints. This standard shall hereby be incorporated by reference into this rule,

as published by American Water Works Association (AWWA), 6666 West Quincy Avenue, Denver, CO 80235-3098. This rule does not incorporate any subsequent amendments or additions.

(4) Manholes.

(A) Location. Manholes shall be installed—

1. At the end of each line;
2. At all changes in grade, size, or alignment;
3. At all sewer pipe intersections; and
4. At distances appropriate to allow for sufficient cleaning and maintenance of sewer lines.

(B) Drop Type.

1. A drop pipe shall be provided for a sewer entering a manhole at an elevation of twenty-four inches (24") or more above the manhole invert.

2. When using precast manholes, drop connections must not enter the manhole at a joint.

(C) Diameter. The minimum diameter of manholes shall be forty-two inches (42") on eight-inch (8") diameter gravity sewer lines and forty-eight inches (48") on all sewer lines larger than eight inches (8") in diameter. A minimum access diameter of twenty-two inches (22") (56 cm) shall be provided. Cleanouts shall be a minimum of eight inches (8") for pipes eight inches (8") in diameter or larger and equal to the diameter for pipes less than eight inches (8").

(F) Inspection and Testing.

1. Vacuum testing, if specified for concrete sewer manholes, shall conform to the test procedures in ASTM C1244 – 11(2017) *Standard Test Method for Concrete Sewer Manholes by the Negative Air Pressure (Vacuum) Test Prior to Backfill*, as approved and published April 1, 2017, or the manufacturer's recommendation. This standard shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

2. Exfiltration testing, if specified for concrete sewer manholes, shall conform to the test procedures in ASTM C969 – 17 *Standard Practice for Infiltration and Exfiltration Acceptance Testing of Installed Precast Concrete Pipe Sewer Lines*, as approved and published April 1, 2017. This standard shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission adopts a rule as follows:

10 CSR 20-8.125 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1685-1687). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this new rule was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were made at the public hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter

during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that a reference made in 10 CSR 20-8.130(7)(D) to 10 CSR 20-8.125(5)(A)5. seems to indicate that the department intended to include a requirement for locator wire installation on all force mains, as indicated in a previous stakeholder meeting on January 23, 2018. MSD requested that paragraph (5)(A)5. include a requirement that all pressure sewers be installed with locator wire to promote safety in increasingly crowded utility corridors. **RESPONSE AND EXPLANATION OF CHANGE:** Paragraph (5)(A)5. has been revised to include locator wire requirements for sewer lines installed in the public right-of-way to be consistent with section 319.033, RSMo.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement in 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement, which refer to “lagoons and wastewater irrigation alternatives.” **RESPONSE AND EXPLANATION OF CHANGE:** For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.125(1) Applicability has also been revised.

COMMENT #3: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction. **RESPONSE:** This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing, and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion. **RESPONSE AND EXPLANATION OF CHANGE:** Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #5: Department staff commented that the security requirement in (4)(D) referenced the incorrect section of 10 CSR 20-8.140(7)(A). **RESPONSE AND EXPLANATION OF CHANGE:** The rule reference in (4)(D) was corrected to reference 10 CSR 20-8.140(8)(A).

COMMENT #6: Department staff commented that the word “is” was missing in (5)(B)3. **RESPONSE AND EXPLANATION OF CHANGE:** The rule language in (5)(B)3. was corrected.

COMMENT #7: Department staff commented that the level controls in (5)(D)6 referenced the incorrect section of 10 CSR 20-8.130(5). **RESPONSE AND EXPLANATION OF CHANGE:** The rule reference in (5)(D)6. was corrected to reference 10 CSR 20-8.130(3)(C).

COMMENT #8: Department staff commented that the electrical equipment in (5)(D)7 referenced the incorrect section of 10 CSR 20-8.130(3)(C).

RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (5)(D)7. was corrected to reference 10 CSR 20-8.130(3)(B)2.

COMMENT #9: Department staff commented that the leakage test in (7)(A)3 referenced the incorrect section of 10 CSR 20-8.120(3)(B). **RESPONSE AND EXPLANATION OF CHANGE:** The rule reference in (7)(A)3. was corrected to reference 10 CSR 20-8.120(3)(C)2.

10 CSR 20-8.125 Alternative Sewer Systems

(1) Applicability. Wastewater systems that utilize alternative sewer systems shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(4) General.

(D) Security. For fencing criteria, follow the provisions in 10 CSR 20-8.140(8)(A).

(5) Pressure Sewers.

(A) Sewer Design.

1. Velocity. Design shall be based on the most probable number of pumping units expected to operate simultaneously or on some other acceptable method of computing the peak pumpage rate.

A. A cleansing velocity of at least two feet per second (2 ft/s), at least once and preferably several times per day, shall be achieved.

2. Minimum size. The minimum diameter sewer main pipe shall not be less than one and a half inches (1.5").

3. Installation. For sewer installation, follow the provisions in 10 CSR 20-8.120(3).

4. Hydrostatic pressure test. The applicant must comply with the manufacturer’s recommended testing procedures.

5. Locator Wire. Locator wire must be utilized when sewer lines are installed within the public right-of-way in accordance with Section 319.033, RSMo.

(B) Sewer Appurtenances. Appurtenances shall be compatible with the piping system and full bore with smooth interior surfaces to eliminate obstruction and keep friction loss to a minimum.

1. Isolation valves shall be—

A. Comprised of resilient seated gate valve or ball valve with a position indicator;

B. Constructed from corrosion resistant materials; and

C. Enclosed in a watertight and lockable valve box.

2. Isolation valves shall be installed on—

A. The upstream side of major pipe intersections;

B. Both sides of stream, bridge, and railroad crossings, and unstable soil; and

C. The terminal end of the system to facilitate future extensions.

3. Proper support (e.g., crushed stone, concrete pads, or a well compacted trench bottom) shall be provided for valves so the weight of the valve is not carried by the pipe.

(D) Grinder Pump Stations.

1. Number of pumps.

A. Simplex grinder pump station shall—

(I) Not serve multiple equivalent dwelling units (EDU) if owned, operated, and maintained by individual homeowners; and

(II) Not serve commercial facilities.

B. Multiple unit grinder pump stations must be owned, operated, and maintained by an approved continuing authority. See subsection

- (4)(A) of this rule for more continuing authority information.
2. Grinder pump vaults shall be watertight.
 3. Storage volume. A grinder pump vault shall have a storage volume of at least seventy (70) gallons.
 4. Valves. The following valves must be provided in the grinder pump vaults:
 - A. A shutoff valve accessible from the ground surface;
 - B. A check valve to prevent backflow; and
 - C. An anti-siphon valve, where siphoning could occur.
 5. Grinder pump construction. For design of pumps and motors, follow the provisions in 10 CSR 20-8.130(5).
 6. Controls. For water level control design, follow the provisions in 10 CSR 20-8.130(3)(C).
 7. Electrical equipment. For electrical equipment, follow the provisions in 10 CSR 20-8.130(3)(B)2.
 8. Emergency operations. When the continuing authority operates and maintains the grinder pump stations, provisions must be made for periods of mechanical or power failure.
- (7) Septic Tank Effluent Gravity (STEG) Sewers.
- (A) Sewer Design.
1. Minimum size. The minimum diameter sewer main pipe shall not be less than four inches (4").
 2. Installation. Follow the provisions in 10 CSR 20-8.120(3)(A).
 3. Leakage tests. Follow the provisions in 10 CSR 20-8.120(3)(C)2.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.130 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1687–1692). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Comments were received during the public hearing from Mr. Trent Stober with HDR Engineering and Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Trent Stober with HDR Engineering commented that all provisions for emergency operation appear to have been eliminated and replaced with alarm and portable pump connection requirements. Mr. Stober and Mr. Errin Kemper with the city of Springfield recommended keeping standby power, standby engine-driven pumping, storage, or second utility source requirements for emergency operation.

RESPONSE AND EXPLANATION OF CHANGE: Emergency operations requirements have been added to section (7) and subsequent numbering has been revised.

COMMENT #2: Mr. Mark Meyer with Enviro-Line commented that a requirement for pumps in pump stations to be capable of passing three-inch non-compressible solids should be retained in the rule to

avoid problems with increased plugging, but that an allowance for Septic Tank Effluent Pumping (STEP), irrigation pumps, or pumps following primary settling tanks needs to also be included.

RESPONSE: The amended rules are intended to provide an accepted and uniform minimum set of standards. Deviations will not be allowed because the proposed rules only mandate minimum design standards. There would need to be several exceptions to a three-inch requirement, and therefore, the suggested requirement does not match the intended purpose of the minimum design standards. A recommendation on sizing will be included in a Design Guide document, which will be finalized in late 2018. When asking for pumps, engineers should specify to their supplier the appropriate pump design for the application. No changes have been made to the rule as a result of this comment.

COMMENT #3: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: 10 CSR 20-8.130(1) Applicability has been revised.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth had some general comments regarding the Red Tape Reduction rule review. He felt it would be difficult to quantify the removal of regulatory requirements to achieve a thirty percent (30%) reduction in restrictive terms. He noted that the department removed the word "shall" and just rewrote sentences, which ultimately didn't remove the regulation, just camouflaged them. He asked that the department go back and review the Red Tape Reduction changes and add them back into the rules.

RESPONSE AND EXPLANATION OF CHANGE: The department has reviewed and corrected the rules to include restrictive language where appropriate, including revisions to housed wet wells in (2)(B), electrical controls in (3)(B), water supply in (3)(G), and wet well access in (4)(C).

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #6: Department staff comment that the potable water separation distance in (2)(D) referenced the incorrect section of 10 CSR 23-3.010(2)(A)5.

RESPONSE AND EXPLANATION OF CHANGE: The rule reference in (2)(D) was corrected to reference 10 CSR 23-3.010(1)(B).

10 CSR 20-8.130 Pumping Stations

- (1) Applicability. Wastewater systems that utilize pumping stations

shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(2) General.

(D) Potable Water Sources. The distance between wastewater pumping stations and all potable water sources shall be at least fifty feet (50') in accordance with 10 CSR 23-3.010(1)(B).

(E) Housed Wet Wells. Housed wet well ventilation shall be in accordance with 10 CSR 20-8.140(8)(J).

(3) Design.

(B) Pumps.

1. Multiple units. Multiple pumps shall be provided except for design average flows of less than fifteen hundred (1,500) gallons per day.

2. Electrical equipment. Electrical equipment shall be provided with the following requirements:

A. Electrical equipment must comply with 10 CSR 20-8.140(7)(B);

B. Utilize corrosive resistant equipment located in the wet well;

C. Provide a watertight seal and separate strain relief for all flexible cable;

D. Install a fused disconnect switch located above ground for the main power feed for all pumping stations.

E. When such equipment is exposed to weather, it shall comply with the requirements of weather proof equipment; enclosure NEMA 4; NEMA 4X, where necessary; and *NEMA Standard 250-2014*, published December 15, 2014. This standard shall hereby be incorporated by reference into this rule, as published by National Electrical Manufacturers Association, 1300 North 17th Street, Arlington, VA 22209. This rule does not incorporate any subsequent amendments or additions;

F. Install lightning and surge protection systems;

G. Install a one hundred ten volt (110 V) power receptacle inside the control panel located outdoors to facilitate maintenance; and

H. Provide Ground Fault Circuit Interruption (GFCI) protection for all outdoor receptacles.

(G) Water Supply. There shall be no physical connection between any potable water supply and a wastewater pumping station, which under any conditions, might cause contamination of the potable water supply. If a potable water supply is brought to the station, it shall comply with conditions stipulated under 10 CSR 20-8.140(7)(D).

(4) Suction Lift Pumps.

(C) Wet Well Access. Wet well access shall not be through the equipment compartment. Access shall be provided in accordance with paragraph (3)(A)2. of this rule.

(7) Emergency Operation.

(A) In addition to the required emergency means of operation and a storage/detention basin or tank, the following minimum retention time shall be provided:

1. For facilities with a design average flow of one hundred thousand (100,000) gallons per day or greater, a storage capacity for two- (2-) hour retention of the peak hourly flow; or

2. For facilities with a design average flow of less than one hundred thousand (100,000) gallons per day, a storage capacity for four- (4-) hour retention of the peak hourly flow.

(B) Independent Utility Substations. Where independent substations are used for emergency power, each separate substation and its

associated distribution lines shall be capable of starting and operating the pump station at its rated capacity.

(8) Force Mains.

(A) Design. Force main system shall be designed to withstand all pressures (including water hammer and associated cyclic reversal of stresses), and maintain a velocity of at least two feet (2') per second.

(B) Installation. For installation follow the provisions in 10 CSR 20-8.120(3)(A).

(C) Protection of Water Supplies. For separation between water mains and sanitary sewer force mains follow the provisions in 10 CSR 20-8.120(5).

(D) Locator wire. For locator wire follow the provisions in 10 CSR 20-8.125(5)(A)5.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under section 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.140 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1692–1699). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received three (3) comment letters during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) recommended that the rule be clarified by defining what qualifies as a “residence.” MSD suggests that the rule include a reference to 10 CSR 20-2.010 for the definition of a residence.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (2)(C)2. was revised to include a reference to section 10 CSR 20-2.010(68) for the definition of a residence.

COMMENT #2: Mr. Jay Hoskins with MSD recommended that paragraph (2)(C)2. Table 140-1 be revised so that separation distances are measured from the property line to the treatment unit footprint, not from the nearest residence to the treatment unit footprint.

RESPONSE: Changing the separation distances from residence to property line would not be reasonable for all facilities in Missouri. If counties or municipalities have concerns or anticipate future growth in their area, they may self-impose buffer distances to their property lines. No changes have been made to the rule as a result of this comment.

COMMENT #3: Mr. Jesse Jefferson provided comments with regard to separation from habitation distance requirements for large facilities. Mr. Jefferson noted that the proposed distances will be either overly restrictive to small facilities, or not remotely appropriate for the larger facilities. The comment letter further stated that not having a specific numerical distance is not the same as not having the requirement for separation.

RESPONSE AND EXPLANATION OF CHANGE: 10 CSR 20-8.020,

which is proposed for rescission, contained setback requirements for facilities with capacities less than twenty-two thousand five hundred (22,500) gallons per day. The proposed amendment extended the fifty-foot separation distance from 10 CSR 20-8.020 to all facilities regardless of capacity. The department is reverting to the current separation requirements. These requirements will be added to 10 CSR 20-8.110(5)(E)6.A., 10 CSR 20-8.140(2)(C)2., and 10 CSR 20-8.140(2)(C)3. For facilities with capacities greater than twenty-two thousand five hundred (22,500) gallons per day, a greater separation distance from habitation may be appropriate.

COMMENT #4: Mr. Jay Hoskins with MSD recommended that the conditions under which facilities should be readily accessible in subsection (2)(D) be changed from “all weather” to “at all times” to ensure that facilities are accessible during a variety of conditions, not limited to weather, such as road closure to the facility.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (2)(D) was revised to replace “all weather” with “at all times.”

COMMENT #5: Mr. Jay Hoskins with MSD noted that the reference in subsection (4)(D) to subsection (6)(C) was not the correct reference with regard to alarm systems.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(D) was revised to replace the reference to subsection (6)(C) with a reference to subsection (7)(C).

COMMENT #6: Mr. Jay Hoskins with MSD commented that the storage temperature requirements in paragraph (9)(B)12. should be selected while taking into consideration the manufacturer’s recommendations for specific chemicals.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (9)(B)12. was revised to require storage temperatures in accordance with the relevant Material Safety Data Sheet (MSDS).

COMMENT #7: Mr. Jay Hoskins with MSD noted that the reference in subsection (7)(G) to subsection (7)(J) is not correct, as subsection (7)(J) does not exist.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (7)(G) was revised to reference subsection (8)(J).

COMMENT #8: Mr. Errin Kemper with the City of Springfield recommended reinstating the language pertaining to emergency power facilities that was originally in section (8).

RESPONSE: Requirements for emergency power facilities were already retained in section (7). More detailed information about methods of providing alternate power will be included in a Design Guide document, which will be finalized in late 2018. No changes have been made to the rule as a result of this comment.

COMMENT #9: Department staff commented that the references in the published rule to section (7) in regards to safety requirements was an incorrect reference and should be section (8).

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (4)(A)2. and subsection (9)(D) were updated.

COMMENT #10: Department staff commented that the reference in the published rule to subsection (6)(B), electrical controls, and (6)(D), water supply, were incorrect references and should be (7)(B) and (7)(D).

RESPONSE AND EXPLANATION OF CHANGE: Subsections (8)(G)–(K) and (9)(B)8. were updated to correct the reference.

COMMENT #11: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general

comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in paragraph (4)(A)3. and subsections (7)(B) and (8)(M) and a clarification was made to (9)(C)13.

COMMENT #12: Ms. Arlene Sandler commented that a suggested change makes it easier to become a waste management system operator and that CAFOs should be held to the strictest environmental requirements, not merely minimum requirements. Ms. Sandler said that these facilities have the potential to pollute groundwater and should not be given the easiest path.

RESPONSE: This comment appears to be referring to operator certification requirements for concentrated animal feeding operation waste management systems, which is covered in 10 CSR 20-14.010. This comment will be addressed in a rulemaking for that rule. No changes have been made to this rule as a result of this comment.

COMMENT #13: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.140 Wastewater Treatment Facilities

(1) Applicability. Wastewater systems shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(2) General.

(C) Minimum Separation Distances.

1. Potable water sources. Unless another distance is determined by the Missouri Geological Survey or by the department’s Public Drinking Water Branch, the minimum distance between wastewater treatment facilities and all potable water sources shall be at least three hundred feet (300’).

2. Residences. No treatment unit with a capacity of twenty-two thousand five hundred gallons per day (22,500 gpd) or less shall be located closer than the minimum distance provided in Table 140-1 below. See 10 CSR 20-2.010(68) for the definition of a residence.

Table 140-1. Minimum Separation Distance for 22,500 gal/d or less.

Type of Facility	Separation Distance
Lagoons	200' to a neighboring residence and 50' to property line
Open recirculating media filters following primary treatment	200' to a neighboring residence
All other discharging facilities	50' to a neighboring residence

3. Plant Location. The following items shall be considered when selecting a plant site: proximity to residential areas; direction of prevailing winds; accessibility by all-weather roads; area available for expansion; local zoning requirements; local soil characteristics, geology, hydrology and topography available to minimize pumping; access to receiving stream; downstream uses of the receiving stream and compatibility of the treatment process with the present and planned future land use, including noise, potential odors, air quality and anticipated sludge processing and disposal techniques. Where a site must be used which is critical with respect to these items, appropriate measures shall be taken to minimize adverse impacts.

(D) Accessibility. Facilities shall be readily accessible by authorized personnel from a public right-of-way at all times.

(4) Pump and Haul.

(A) General.

1. Accessibility. Conform to subsection (2)(D) of this rule.

2. Security. Follow the provisions in subsection (8)(A) of this rule for fencing.

3. Protection of water supplies. Separation and crossing of water supplies shall be in accordance with subsection (2)(C) of this rule and 10 CSR 20-8.120(5).

(D) Alarm system. The alarm shall be activated in cases of high water levels. Follow the provisions in subsection (7)(C) of this rule for alarm systems.

(7) Essential Facilities.

(B) Electrical Controls. Electrical systems and components in raw wastewater or in enclosed or partially enclosed spaces where hazardous concentrations of flammable gases or vapors that are normally present, shall comply with the NFPA 70 *National Electric Code (NEC)* (2017 Edition), as approved and published August 24, 2016, requirements for Class I, Division 1, Group D locations. This standard shall hereby be incorporated by reference in this rule, as published by National Fire Protection Association® (NFPA), 1 Batterymarch Park, Quincy, MA 02169-7471. This rule does not incorporate any subsequent amendments or additions.

(G) Housed Facilities. Where wastewater treatment units are in a housed facility, follow the provisions in subsection (8)(J) of this rule for ventilation.

(8) Safety. Adequate provisions shall be made to effectively protect facility personnel and visitors from hazards. The following shall be provided to fulfill the particular needs of each wastewater treatment facility:

(G) Portable lighting equipment complying with NEC requirements. See subsection (7)(B) of this rule;

(H) Gas detectors listed and labeled for use in NEC Class I, Division 1, Group D locations. See subsection (7)(B) of this rule;

(I) Appropriately-placed warning signs for slippery areas, non-potable water fixtures (see subparagraph (7)(D)3.B. of this rule), low head clearance areas, open service manholes, hazardous chemical storage areas, flammable fuel storage areas, high noise areas, etc.;

(J) Ventilation. Ventilation shall include the following:

1. Isolate all pumping stations and wastewater treatment components installed in a building where other equipment or offices are located from the rest of the building by an air-tight partition, provide separate outside entrances, and provide separate and independent fresh air supply;

2. Force fresh air into enclosed screening device areas or open pits more than four feet (4') deep. Also see 10 CSR 20-8.130(3)(F);

3. Dampers. Dampers are not to be used on exhaust or fresh air ducts. Avoid the use of fine screens or other obstructions on exhaust or fresh air ducts to prevent clogging;

4. Continuous ventilation. Where continuous ventilation is needed (e.g., housed facilities), provide at least twelve (12) complete air changes per hour. Where continuous ventilation would cause excessive heat loss, provide intermittent ventilation of at least thirty (30) complete air changes per hour when facility personnel enter the area. Base air change demands on one hundred percent (100%) fresh

air;

5. Electrical controls. Mark and conveniently locate switches for operation of ventilation equipment outside of the wet well or building. Interconnect all intermittently operated ventilation equipment with the respective wet well, dry well, or building lighting system. The manual lighting/ventilation switch is expected to override the automatic controls. For a two (2) speed ventilation system with automatic switch over where gas detection equipment is installed, increase the ventilation rate automatically in response to the detection of hazardous concentrations of gases or vapors; and

6. Fans, heating, and dehumidification. Fabricate the fan wheel from non-sparking material. Provide automatic heating and dehumidification equipment in all dry wells and buildings. Follow the provisions in subsection (7)(B) of this rule for electrical controls;

(K) Explosion-proof electrical equipment, non-sparking tools, gas detectors, and similar devices, in work areas where hazardous conditions may exist, such as digester vaults and other locations where potentially explosive atmospheres of flammable gas or vapor with air may accumulate. See subsection (7)(B) of this rule;

(M) Provisions for an arc flash hazard analysis and determination of the flash protection boundary distance and type of PPE to reduce exposure to major electrical hazards in accordance with NFPA 70E *Standard for Electrical Safety in the Workplace* (2018 Edition), as approved and published August 21, 2017. This standard shall hereby be incorporated by reference in this rule, as published by National Fire Protection Association®, 1 Batterymarch Park, Quincy, MA 02169-7471. This rule does not incorporate any subsequent amendments or additions.

(9) Chemical Handling.

(B) Chemical Housing. The following shall be provided to fulfill the particular needs of each chemical housing facility:

1. Provide storage for a minimum of thirty (30) days' supply, unless local suppliers and conditions indicate that such storage can be reduced without limiting the supply;

2. Construct the chemical storage room of fire and corrosion resistant material;

3. Equip doors with panic hardware. To prevent unauthorized access, doors lock but do not need a key to exit the locked room using the panic hardware;

4. Provide chemical storage areas with drains, sumps, finished water plumbing, and the hose bibs and hoses necessary to clean up spills and to wash equipment;

5. Construct chemical storage area floors and walls of material that is suitable to the chemicals being stored and that is capable of being cleaned;

6. Install floor surfaces to be smooth, chemical resistant, slip resistant, and well drained with three inches per ten feet (3"/10') minimum slope;

7. Provide adequate lighting;

8. Comply with the NEC recommendation for lighting and electrical equipment based on the chemicals stored. See subsection (7)(B) of this rule;

9. Store chemical containers in a cool, dry, and well-ventilated area;

10. Design vents from feeders, storage facilities, and equipment exhaust to discharge to the outside atmosphere above grade and remote from air intakes;

11. Locate storage area for chemical containers out of direct sunlight;

12. Maintain storage temperatures in accordance with relevant Material Safety Data Sheets (MSDS);

13. Control humidity as necessary when storing dry chemicals;

14. Design the storage area with designated areas for "full" and "empty" chemical containers;

15. Provide storage rooms housing flammable chemicals with an automatic sprinkler system designed for four tenths gallons per minute per square foot (0.4 gpm/ft²) and a minimum duration of twenty (20) minutes;

16. Store incompatible chemicals separately to ensure the safety

of facility personnel and the wastewater treatment system. Store any two (2) chemicals that can react to form a toxic gas in separate housing facilities;

17. Design and isolate areas intended for storage and handling of chlorine and sulfur dioxide and other hazardous gases. Follow the provisions in 10 CSR 20-8.190(3) and 10 CSR 20-8.190(4) for chlorine and dechlorination;

18. Design an isolated fireproof storage area and explosion proof electrical outlets, lights, and motors for all powdered activated carbon storage and handling areas in accordance with federal, state, and local requirements;

19. Vent acid storage tanks to the outside atmosphere, but not through vents in common with day tanks;

20. Keep concentrated acid solutions or dry powder in closed, acid-resistant shipping containers or storage units; and

21. Pump concentrated liquid acids in undiluted form from the original container to the point of treatment or to a covered storage tank. Do not handle in open vessels.

(C) Chemical Handling Design. The following shall be provided, where applicable, for the design of chemical handling:

1. Make provisions for measuring quantities of chemicals used for treatment or to prepare feed solutions over the range of design application rates;

2. Select storage tanks, piping, and equipment for liquid chemicals specific to the chemicals;

3. Install all liquid chemical mixing and feed installations on corrosion resistant pedestals;

4. Provide sufficient capacity of solution storage or day tanks feeding directly for twenty-four- (24-) hour operation at design average flow;

5. Provide a minimum of two (2) chemical feeders for continuous operability. Provide a standby unit or combination of units of sufficient capacity to replace the largest unit out-of-service;

6. Chemical feeders shall—

A. Be designed with chemical feed equipment to meet the maximum dosage requirements for the design average flow conditions;

B. Be able to supply, at all times, the necessary amounts of chemicals at an accurate rate throughout the range of feed;

C. Provide proportioning of chemical feed to the rate of flow where the flow rate is not constant;

D. Be designed to be readily accessible for servicing, repair, and observation;

E. Protect the entire feeder system against freezing;

F. Be located adjacent to points of application to minimize length of feed lines;

G. Provide for both automatic and manual operation for chemical feed control systems;

H. Utilize automatic chemical dose or residual analyzers, and where provided, include alarms for critical values and recording charts;

I. Provide screens and valves on the chemical feed pump suction lines; and

J. Provide an air break or anti-siphon device where the chemical solution enters the water stream;

7. Dry chemical feed system shall—

A. Be equipped with a dissolver capable of providing a minimum retention period of five (5) minutes at the maximum feed rate;

B. Be equipped with two (2) solution vessels and transfer piping for polyelectrolyte feed installations;

C. Have an eductor funnel or other appropriate arrangement for wetting the polymer during the preparation of the stock feed solution on the makeup tanks;

D. Provide adequate mixing by means of a large diameter, low-speed mixer;

E. Make provisions to measure the dry chemical volumetrically or gravimetrically; and

F. Completely enclose chemicals and prevent emission of dust;

8. Provide for uniform strength of solution consistent with the

nature of the chemical solution for solution tank dosing;

9. Use solution feed pumps to feed chemical slurries that are not diaphragm or piston type positive displacement types;

10. Provide continuous agitation to maintain slurries in suspension;

11. Provide a minimum of two (2) flocculation tanks or channels having a combined detention period of twenty to thirty (20 – 30) minutes. Provide independent controls for each tank or channel;

12. Insulate pipelines carrying soda ash at concentrations greater than twenty percent (20%) solution to prevent crystallization; and

13. Prohibit bagging soda ash in a damp or humid place.

(D) Chemical Safety. The following shall be provided in addition to the safety provisions in section (8) of this rule:

1. Appropriate personal protective equipment (PPE).

2. Eye wash fountains and safety showers. Eye wash fountains and safety showers utilizing potable water shall be provided in the laboratory and on each level or work location involving hazardous or corrosive chemical storage, mixing (or slaking), pumping, metering, or transportation unloading. The design of eye wash fountains and safety showers shall include the following:

A. Eye wash fountains with water of moderate temperature, fifty degrees to ninety degrees Fahrenheit (50°–90°F), suitable to provide fifteen to thirty (15–30) minutes of continuous irrigation of the eyes;

B. Emergency showers capable of discharging twenty gallons per minute (20 gpm) of water of moderate temperature, fifty degrees to ninety degrees Fahrenheit (50°–90°F), and at pressures of thirty to fifty pounds per square inch (30–50 psi);

C. Eye wash fountains and emergency showers located no more than twenty-five feet (25') from points of hazardous chemical exposure; and

D. Eye wash fountains and showers that are to be fully operable during all weather conditions; and

3. Warning signs. Warning signs requiring use of goggles shall be located near chemical stations, pumps, and other points of frequent hazard.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under section 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.150 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1699–1702). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that in subsection (4)(B), the last sentence about freeze protection can be deleted as it is redundant with 10 CSR 20-8.150(4)(A)1.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph

(4)(A)1. has been changed to reflect that all screening devices and screening storage areas need to be protected from freezing. The redundant last sentence in subsection (4)(B) has been deleted.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement, which refers to “lagoons and wastewater irrigation alternatives.”

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.150(1) has also been revised.

COMMENT #3: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change was made: language was changed in section (3) Grease Interceptors.

COMMENT #4: An error was noted by department staff in section (6) with the word “for” used, where the word “or” should have been used. Additionally, it was noted that this sentence was poorly worded and confusing.

RESPONSE AND EXPLANATION OF CHANGE: Section (6) has been revised to clarify the meaning.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.150 Preliminary Treatment

(1) Applicability. Wastewater systems that utilize preliminary treatment shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Grease Interceptors. Grease interceptors shall be provided on kitchen drain lines from institutions, hospitals, hotels, restaurants, schools, bars, cafeterias, clubs, and other establishments from which relatively large amounts of grease may be discharged to a wastewater treatment facility owned by the grease-producing entity. Grease interceptors are typically constructed from fiberglass reinforced polyester,

high density polyethylene (HDPE), or concrete. For corrugated HDPE grease interceptors, follow *ASTM F2649 – 14 Standard Specification for Corrugated High Density Polyethylene (HDPE) Grease Interceptor Tanks*, as approved and published September 1, 2014. For precast concrete grease interceptor tanks, follow *ASTM C1613 – 17 Standard Specification for Precast Concrete Grease Interceptor Tanks*, as approved and published September 1, 2017. These standards shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

(4) Screening Devices.

(A) General.

1. Freeze protection. All screening devices and screening storage areas shall be protected from freezing.

2. Provisions shall be made for isolating or removing screening devices from their location for servicing.

3. Safety.

A. Railings and gratings.

(I) Manually cleaned screen channels shall be protected by guard railings and deck gratings with adequate provisions for removal or opening to facilitate raking.

(II) Mechanically cleaned screen channels shall be protected by guard railings and deck gratings. Give consideration to temporary access arrangements to facilitate maintenance and repair.

B. Mechanical devices.

(I) Mechanical screening equipment shall have adequate removal enclosures to protect facility personnel against accidental contact with moving parts and to prevent dripping in multi-level installations.

(II) A positive means of locking out each mechanical device shall be provided.

(III) An emergency stop button with an automatic reverse function shall be located in close proximity to the mechanical device.

C. Electrical Equipment, Fixtures, and Controls. Electrical equipment, fixtures, and controls in screening area where hazardous gases may accumulate shall meet the requirements of the electrical code referenced in 10 CSR 20-8.140(7)(B).

(B) Screens. Where two (2) or more mechanically cleaned screens are used, the design shall provide for taking the largest unit out-of-service without sacrificing the capability to handle the average design flow. Where only one mechanically cleaned screen is used, it shall be sized to handle the design peak instantaneous flow.

(6) Grit removal facilities are required for wastewater treatment facilities that—

(A) Utilize membrane bioreactors for secondary treatment;

(B) Utilize anaerobic digestion;

(C) Receive wastewater from combined sewers; or

(D) Receive wastewater from collection systems that receive substantial amounts of grit.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.160 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1702-1705). Those sections with changes are reprinted

here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Three (3) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth, and three (3) comments were received from Mr. Trent Stober with HDR Engineering. The department received one comment letter from one individual during the public comment period.

COMMENT #1: Mr. Byron Shaw with MECO Engineering commented on the seven foot (7') minimum side water depth for final settling tanks following activated sludge processes (>100,000 gpd) in Table 160-1. in subsection (3)(A). Mr. Shaw stated this is very difficult to achieve with very small flows, and recommend not setting a minimum side water depth for very small flows.

RESPONSE AND EXPLANATION OF CHANGE: The minimum side water depth for final settling tanks following activated sludge and attached growth biological reactors that are less than one hundred thousand (100,000) gpd has been removed.

COMMENT #2: Mr. Trent Stober with HDR Engineering recommended adding provisions at paragraph (3)(B)1. for chemically enhanced primary treatment to allow for higher surface overflow rates with justification from an engineer.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (3)(B)1. Table 160-2. has been revised to include requirements specific to chemically enhanced primary treatment.

COMMENT #3: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield commented on the surface overflow rates and peak solids loading rates in paragraph (3)(B)3. Table 160-3. Mr. Stober questioned why some require less than one thousand (1,000) gpd/ft² and why some are allowed up to forty (40) lb/day/ft². Mr. Stober and Mr. Kemper recommended revising the surface overflow rate to one thousand (1,000) gpd/ft² for Multi-Stage Nitrification and Activated Sludge with Chemical addition to Mixed Liquor for Phosphorus removal. Mr. Kemper suggested using a peak solids loading rate of thirty-five (35) lbs/day/sq. ft for all processes. **RESPONSE:** Values for surface overflow rates and peak solids loading rates were selected with consideration of values in Metcalf & Eddy's *Wastewater Engineering Treatment and Reuse* and the 10 States Standards *Recommended Standards for Wastewater Facilities*. No changes were made as a result of this comment.

COMMENT #4: Mr. Trent Stober with HDR Engineering and Mr. Errin Kemper with the city of Springfield commented that the minimum slope requirement for clarifier floors in subsection (4)(A) of one (1) vertical to (12) twelve horizontal does not allow for suction style clarifier design and should be amended to allow one sixteenth of an inch per foot for suction style sludge removal.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(A) has been revised to address suction style sludge removal for settling tanks.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to "wastewater systems" and replacing it with language from the heading and purpose statement, which refer to "lagoons and wastewater irrigation alternatives."

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.160(1) has also been revised.

COMMENT #6: Mr. Robert Brundage, Newman, Comley, and Ruth

made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made to this rule.

COMMENT #7: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #8: Department staff noted a grammatical error in subsection (4)(B) related to spelling out a numerical ratio.

RESPONSE AND EXPLANATION OF CHANGE: Department staff has corrected this.

10 CSR 20-8.160 Settling

(1) Applicability. Wastewater systems that utilize settling shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Design.

(A) Side Water Depth. The minimum side water depth shall be as follows in Table 160-1 below:

Table 160-1. Minimum Side Water Depth.

Type of Settling Tank	Minimum Side Water Depth (ft)
Primary (>100,000 gpd)	10
Primary (<100,000 gpd)	7
Final following activated sludge process	12
Final following attached growth biological reactor (>100,000 gpd)	10

(B) Surface Overflow Rates.

1. Primary settling tanks. Calculate the surface overflow rates for both design average flow and design peak hourly flow from Table 160-2 below. The larger area shall determine the size of the settling tank.

Table 160-2. Maximum Primary Settling Tank Surface Overflow Rates.

Type of Primary Settling Tank	Surface Overflow Rates ¹ :	
	At Design Average Flow (gpd/ft ²)	At Design Peak Hourly Flow (gpd/ft ²)
Tanks not receiving waste activated sludge	1,000	3,000
Tanks receiving waste activated sludge	700	1,700
Chemically enhanced	1,400	1,500

¹ Calculate surface overflow rates with all flows received at the settling tanks.

² Final settling tanks – attached growth biological reactors. Surface overflow rates for settling tanks following attached growth biological reactors shall not exceed one thousand two hundred gallons per day per square foot (1,200 gpd/ft²) based on the design peak hourly flow.

³ Final settling tanks – activated sludge. The following design criteria in Table 160-3, included herein, shall not be exceeded:

Table 160-3. Maximum Activated Sludge Final Settling Tank Rates.

Treatment Process	Surface Overflow Rate at Design Peak Hourly Flow ¹ (gpd/ft ²)	Peak Solids Loading Rate ² (lb/day/ft ²)
With diurnal flow equalization ³	1,000	35
Without diurnal flow equalization ³	150 x Peaking Factor ⁴	35
Conventional, Step Aeration, Complete Mix, Contact Stabilization, Carbonaceous Stage of Separate Stage Nitrification	1,200 ⁵	40
Extended Aeration Single-Stage Nitrification	1,000	35
Multi-Stage Nitrification	800	35
Activated Sludge with Chemical addition to Mixed Liquor for Phosphorus Removal	900	35

¹ Based on influent flow only.

² Calculate the peak solids loading rate based on the design maximum day flow rate plus the design maximum return sludge rate requirement and the design mixed liquor suspended solids under aeration.

³ Applicable to wastewater treatment facilities with a design average flow of less than one hundred thousand gallons per day (100,000 gpd).

⁴ To determine the peaking factor use 10 CSR 20-8.110(3) Equation 110-1.

⁵ Wastewater treatment facilities needing to meet twenty milligrams per liter (20 mg/L) suspended solids or less should reduce the surface overflow rate to one thousand gallons per day per square foot (1,000 gpd/ft²).

(4) Sludge Removal.

(A) Settling floor. The minimum slope of the settling floor shall be one vertical to twelve horizontal (1:12) for conventional settling tanks and one vertical to one hundred ninety-two horizontal (1:192) for suction style settling tanks.

(B) Sludge hopper. The minimum slope of the sludge hopper side walls shall be one and seven tenths vertical to one horizontal (1.7:1) (i.e., sixty degrees (60°) above the horizontal).

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.170 is amended.

A notice of proposed rulemaking containing the text of the proposed

amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1705–1710). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley, and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that paragraph (4)(A)2. and section (6) incorrectly reference subsection 10 CSR 20-8.140(6)(C) with regard to alarm systems.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (4)(A)2. and section (6) have been revised to reference 10 CSR 20-8.140(7)(C) for alarm system requirements.

COMMENT #2: Mr. Jay Hoskins with MSD commented that paragraph (4)(C)4. incorrectly references 10 CSR 20-8.140(7)(J) with regard to ventilation requirements.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (4)(C)4. has been revised to reference 10 CSR 20-8.140(8)(J) for ventilation requirements.

COMMENT #3: Mr. Jay Hoskins with MSD commented that subsection (4)(D) incorrectly references 10 CSR 20-8.140(6)(D) with regard to indirect water supply connections.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(D) has been revised to reference 10 CSR 20-8.140(7)(D) for indirect water supply connection requirements.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement, which refer to “lagoons and wastewater irrigation alternatives.”

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.170(1) has also been revised.

COMMENT #5: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in paragraphs (4)(A)2., (4)(C)2., (4)(C)3. and sections (6) and (8).

COMMENT #6: Mr. Robert Brundage with Newman, Comley, and

Ruth commented that on 10 CSR 20-8.300 the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.170 Solids Handling and Disposal

(1) **Applicability.** Wastewater systems that utilize solids handling and disposal shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(4) Anaerobic Solids Digestion.

(A) General.

1. Safety. Gas detectors shall be provided for emergency use.

2. Alarm systems shall be provided in accordance with 10 CSR 20-8.140(7)(C) to warn of:

A. Any drop of the liquid level below minimum operating elevation; and

B. Low pressure in the space above the liquid level.

(C) Gas Collection, Piping and Appurtenances.

1. Safety equipment. Where gas is produced, all necessary safety facilities shall:

A. Provide pressure and vacuum relief valves and flame traps, together with automatic safety shutoff valves and protect from freezing;

B. Not install water seal equipment; and

C. House gas safety equipment and gas compressors in a separate room with an exterior entrance.

2. Piping galleries shall be ventilated in accordance with paragraph (4)(C)4. of this rule.

3. Electrical fixtures, equipment, and controls. Electrical fixtures, equipment, and controls shall comply with the National Electrical Manufacturers Association (NEMA) 4X enclosure rating where necessary; NEMA Standard 250-2014, published December 15, 2014. This standard shall be incorporated by reference into this rule, as published by National Electrical Manufacturers Association, 1300 North 17th Street, Arlington, VA 22209. This rule does not incorporate any subsequent amendments or additions. Electrical equipment, fixtures, and controls, in places enclosing and adjacent to anaerobic digestive appurtenances where hazardous gases are included.

4. Ventilation. Any underground enclosures connecting with digestion tanks or containing solids or gas piping or equipment shall be provided with forced ventilation in accordance with 10 CSR 20-8.140(8)(J).

(D) Water Supply. Water supplies using indirect connections shall comply with 10 CSR 20-8.140(7)(D).

(6) For solids pumping systems, audio-visual alarms shall be provided in accordance with 10 CSR 20-8.140(7)(C) for:

(8) Sludge and Biosolids Storage Lagoons. The sludge lagoon bottoms and embankments shall be sealed in accordance with 10 CSR 20-8.200(4)(C) to prevent leaching into adjacent soils or groundwater.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under section 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.180 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1710–1716). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department received one (1) comment letter from one (1) individual during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) commented that subsection (3)(A) on recirculating media filter location is in conflict with the minimum separation distances at 10 CSR 20-8.140(2)(C)2. Table 140-1. Mr. Hoskins suggested making all discussion and references to minimum separation distances consistent with Table 140-1.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (3)(A) has been revised to reference 10 CSR 20-8.140(2)(C)(2) for minimum separation distances.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement, which refers to “lagoons and wastewater irrigation alternatives.”

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.180(1) has also been revised.

COMMENT #3: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

2. Not exceed three and half gallons per day per square foot (3.5 gpd/sqft) for sand or rock filters.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.180 Biological Treatment

(1) Applicability. Wastewater systems that utilize biological treatment shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Recirculating Media Filters.

(A) Location. Recirculating media filters shall be located in accordance with the minimum separation distances at 10 CSR 20-8.140(2)(C)(2).

(D) Loading. Hydraulic loading rate shall—

1. Follow the manufacturer’s recommendation for synthetic media filters; and

2. Not exceed three and one-half gallons per day per square foot (3.5 gpd/sqft) for sand or rock filters.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.190 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1716–1719). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) recommended adding a brief list of examples of chlorine disinfection chemicals at the beginning of section (3).

RESPONSE: Placing a list of commonly used chemicals for chlorine disinfection may limit applicants from exploring other options as no deviations would be allowed from a list included in this rule. A list of commonly used chemicals will be included in a Design Guide document, which will be finalized in late 2018. No change to the rule has been made as a result of this comment.

COMMENT #2: Mr. Jay Hoskins with Metropolitan St. Louis Sewer District (MSD) recommended adding a brief list of examples of dechlorination chemicals at the beginning of section (4).

RESPONSE: Placing a list of commonly used chemicals for dechlorination may limit applicants from exploring other options as no deviations would be allowed from a list included in this rule. A list of commonly used chemicals will be included in a Design Guide document, which will be finalized in late 2018. No change to the rule has been made as a result of this comment.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement, which refer to “lagoons and wastewater irrigation alternatives.”

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as result of this comment, 10 CSR 20-8.190(1) has also been revised.

COMMENT #4: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

10 CSR 20-8.190 Disinfection

(1) Applicability. Wastewater systems that utilize disinfection shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State

of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.200 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1719-1726). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department received one (1) comment letter during the public comment period.

COMMENT #1: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement in section (1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement which refers to “lagoons and wastewater irrigation alternatives.”

RESPONSE AND EXPLANATION OF CHANGE: Section (1) has been revised to be consistent with language from the heading and purpose statement. Additionally, 10 CSR 20-8.110(1), 10 CSR 20-8.120(1), 10 CSR 20-8.125(1), 10 CSR 20-8.130(1), 10 CSR 20-8.150(1), 10 CSR 20-8.160(1), 10 CSR 20-8.170(1), 10 CSR 20-8.180(1), 10 CSR 20-8.190(1), 10 CSR 20-8.210(1) have been similarly revised for consistency as described in their respective Orders of Rulemaking.

COMMENT #2: Ms. Sherri Stoner with Missouri Geological Survey (MGS) commented that there are discrepancies regarding when a geohydrologic evaluation is needed and requested that we revise the rules to be consistent. Ms. Stoner noted discrepancies at 10 CSR 20-8.110(5)(E)6.G., 10 CSR 20-8.200(2)(B), and 10 CSR 20-8.300(5)(A).

RESPONSE AND EXPLANATION OF CHANGE: Subsection (2)(B) and paragraph (2)(B)1. of this rule and 10 CSR 20-8.110(5)(E)6.G. have been revised to provide clarity.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #4: Department staff commented that (4)(D)2. references 10 CSR 20-8.120(6), for manholes which does not exist and should be section (4) of 10 CSR 20-8.120.

RESPONSE AND EXPLANATION OF CHANGE: The rule was updated to include the appropriate references for manholes.

COMMENT #5: Department staff commented that disinfection for public access areas should reference the disinfection design standards, 10 CSR 20-8.190 rather than the lagoon basis of design, section (3).

RESPONSE AND EXPLANATION OF CHANGE: The reference to disinfection for public access areas was updated to reference 10 CSR 20-8.190.

COMMENT #6: Department staff commented that the title to section

(7) says subsurface adsorption and it should be subsurface absorption.

RESPONSE AND EXPLANATION OF CHANGE: The title to section (7) was corrected.

COMMENT #7: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%)

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made:

The word ‘shall’ was added to subsection (6)(F) and paragraph (8)(A)2. The department also made a change to subsection (6)(E) for clarification.

10 CSR 20-8.200 Wastewater Treatment Lagoons and Wastewater Irrigation Alternatives

(1) Applicability. Wastewater systems that utilize lagoons and wastewater irrigation alternatives shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard textbooks, current technical literature, and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(2) Supplementary Field Data for the Facility Plan. The facility plan shall contain pertinent information on location, geology, soil conditions, area for expansion, and any other factors that will affect the feasibility and acceptability of the proposed project, including the information required per 10 CSR 20-8.110. The following information must be submitted:

(B) Geohydrological Evaluation. A geohydrological evaluation shall be requested on all new earthen basins, earthen basin major modifications, new wastewater irrigation sites, and subsurface absorption fields.

1. Severe Collapse Potential. Earthen basins shall not be located in areas with a severe collapse potential rating.

(4) Lagoon Construction Details.

(D) Influent Lines.

1. Unlined corrugated metal pipe shall not be used due to corrosion problems.

2. A manhole shall be installed with its invert at least six inches (6") above the maximum operating level of the lagoon, prior to the entrance into the primary cell, and provide sufficient hydraulic head without surcharging the manhole. For manhole installation, follow the provisions listed in 10 CSR 8.120(4).

3. The influent line(s) shall be located along the bottom of the lagoon so that the top of the pipe is just below the average elevation of the lagoon seal; however, there shall be an adequate seal below the pipe.

(6) Surface Irrigation of Wastewater.

(E) The applicant shall defer the grazing of animals or harvesting of forage crops, as listed below, following wastewater irrigation, depending upon ambient air temperature and sunlight conditions.

1. Fourteen (14) days from grazing or forage harvesting during the period from May 1 to October 31 of each year; and

2. Thirty (30) days from grazing or forage harvesting during the period from November 1 to April 30 of each year.

(F) Public Access Areas. Wastewater shall be disinfected prior to irrigation (not storage) in accordance with 10 CSR 20-8.190.

1. The wastewater shall contain as few of the indicator organisms as possible and in no case contain more than one hundred twenty-six (126) *Escherichia coli* form colony forming units per one hundred milliliters (126 cfu/ 100 ml);

2. The public shall not be allowed into an area when irrigation is being conducted; and

3. For golf courses utilizing wastewater, all piping and sprinklers associated with the distribution or transmission of wastewater shall be color-coded and labeled or tagged to warn against the consumptive use of contents.

(7) Subsurface Absorption Systems.

(8) Low Pressure Pipe (LPP) Subsurface Systems.

(A) Design.

1. The LPP system shall be sized in accordance with the following equations, Equation 200-2 and Equation 200-3:

$$A = \frac{Q}{LTAR}$$

and
Equation 200-3

$$L = \frac{A}{5 \text{ ft}}$$

where:

A = Minimum LPP soil treatment area (square feet (sq.ft))

L = Minimum total length of LPP trench (ft)

Q = Maximum daily wastewater flow (gallons per day (gpd))

LTAR = Long term acceptance rate (gpd/sq.ft). This is the lowest reported LPP soil loading rate between the soil surface and at least twelve inches (12") below the specified LPP trench bottom, or as approved by the Missouri Department of Natural Resources (department).

2. All network piping and low pressure distribution piping and fittings with polyvinyl chloride (PVC) shall meet ASTM Standard D 1785 *Standard Specification for Poly(Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, or 120* as approved and published August 1, 2015, or equivalent rated to meet or exceed ASTM D2466 *Standard Specification for Poly(Vinyl Chloride) (PVC) Plastic Drain, Waste, and Vent Pipe and Fittings* as approved and published August 1, 2017. These standards shall hereby be incorporated by reference into this rule, as published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959. This rule does not incorporate any subsequent amendments or additions.

3. Manifold design shall address freeze protection while assuring uniform distribution and to minimize drain down of laterals into other laterals at a lower elevation between dosing events.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State

of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.210 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1726–1730). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. Two (2) comments were received during the public hearing from Mr. Robert Brundage with Newman, Comley and Ruth. The department did not receive any comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage with Newman, Comley, and Ruth commented on the applicability statement at 10 CSR 20-8.200(1). Mr. Brundage recommended deleting the reference to “wastewater systems” and replacing it with language from the heading and purpose statement, which refers to “lagoons and wastewater irrigation alternatives.”

RESPONSE AND EXPLANATION OF CHANGE: For consistency with revisions made in other rules as a result of this comment, 10 CSR 20-8.210(1) has also been revised.

COMMENT #2: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department’s removal of the word “shall” in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department’s proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word “shall” has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth commented on 10 CSR 20-8.300 that the title references “Design Animal Waste Management Systems.” Mr. Brundage noted that this term is not defined and could cause confusion.

RESPONSE AND EXPLANATION OF CHANGE: Since the title and reference to animal waste management systems was removed from 10 CSR 20-8.300, the other rules referencing animal waste management systems were updated for consistency.

COMMENT #4: Department staff noted a change needed to be made to correct the units in paragraph (3)(A)1. Staff also noted a wording correction needed to be made in paragraph (3)(C)2.

RESPONSE AND EXPLANATION OF CHANGE: The units in paragraph (3)(A)1. were corrected as well as wording in paragraph (3)(C)2.

10 CSR 20-8.210 Supplemental Treatment

(1) Applicability. Wastewater systems that utilize supplemental treatment shall be designed based on criteria contained in this rule, published standards, applicable federal and state requirements, standard

textbooks, current technical literature and applicable safety standards. In the event of any conflict between the above criteria, the requirement in this rule shall prevail.

(A) This rule shall not apply to treatment units covered in 10 CSR 20-8.300.

(B) This rule shall not apply to treatment units covered in 10 CSR 20-8.500.

(3) Filtration.

(A) Filtration systems shall be preceded with additional process, such as chemical coagulation and sedimentation or other acceptable process, when:

1. Permit requirements for total suspended solids (TSS) are less than ten milligrams per liter (10 mg/L);
2. Effluent quality is expected to fluctuate significantly;
3. Significant amounts of algae are present; or
4. The manufacturer recommends an additional process.

(C) Deep bed filters.

1. The design of manifold type filtrate collection or underdrain systems shall:

- A. Minimize loss of head in the manifold and baffles;
 - B. Provide the ratio of the area of the underdrain orifices to the entire surface area of the filter media at about three one-thousandths (0.003);
 - C. Provide the total cross-sectional area of the laterals at about twice the area of the final openings; and
 - D. Provide a manifold that has a minimum cross sectional area that is one and one half (1.5) times the total area of the laterals.
2. All rotary surface wash devices shall provide adequate surface wash water to provide one half to one gallon per minute per square foot (0.5-1.0 gpm/ sq ft) of filter area.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 20-8.220 Land Treatment is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1730–1731). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed rescission. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department did not receive any comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes

were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. This rule is being rescinded so no changes were made as a result of this review.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.300 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1731–1737). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received two (2) comment letters during the public comment period.

COMMENT #1: Ms. Sherri Stoner with Missouri Geological Survey (MGS) commented that there are discrepancies in when a geohydrologic evaluation is needed and requested that we revise the rules to be consistent. Ms. Stoner noted discrepancies at 10 CSR 20-8.110(5)(E)6.G., 10 CSR 20-8.200(2)(B), and 10 CSR 20-8.300(5)(A).

RESPONSE: 10 CSR 20-8.110(5)(E)6.G. and 10 CSR 20-8.200(2)(B) have been revised to provide clarity. No discrepancies were found in 10 CSR 20-8.300.

COMMENT #2: Mr. Robert Brundage with Newman, Comley, and Ruth commented that the title of the regulation references "Design Animal Waste Management Systems." Mr. Brundage noted that this term is not defined and could cause confusion. He recommended an alternate title of "Design of Concentrated Animal Feeding Operations" to be consistent with the applicability section.

RESPONSE AND EXPLANATION OF CHANGE: The title of this rule has been changed as suggested. With the change in title, the language in the purpose statement, the applicability section, and subsections (5)(M) and (9)(B) were also updated to remove the reference to animal waste management systems.

COMMENT #3: Mr. Robert Brundage with Newman, Comley, and Ruth recommended that subsection (1)(E) should be retained to allow for situations where deviations would be appropriate.

RESPONSE: The amended rules are intended to provide an accepted and uniform minimum set of standards. Deviations will not be allowed because the proposed rules only mandate minimum design standards. No changes were made as a result of this comment.

COMMENT #4: Mr. Robert Brundage with Newman, Comley, and

Ruth commented that proposed language in subsection (4)(A) states that manure storage structures shall be designed as no discharge; however some Confined Animal Feeding Operations (CAFOs) are allowed to discharge under limited circumstances described in the effluent limitation guidelines which are incorporated by reference at 10 CSR 20-6.300. Mr. Brundage stated that this should be reflected in the rule.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (4)(A) has been revised to reference 10 CSR 20-6.300(4).

COMMENT #5: Mr. Robert Brundage with Newman, Comley, and Ruth suggested that the removed language at paragraph (8)(A)8. with regard to separation from potable water lines be reinstated to provide clarity.

RESPONSE AND EXPLANATION OF CHANGE: Paragraph (8)(A)8. has been revised to provide more clarity.

COMMENT #6: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: Language was changed in Section (4)(C).

COMMENT #7: Department staff have noted the following for correction: Grammatical errors in subparagraphs (4)(D)2.A. and 2.B. as well as section (5)(D) needed correction. Subsections (5)(I) and (6)(F) contain periods that are out of place.

RESPONSE AND EXPLANATION OF CHANGE: Subparagraphs (4)(D)2.A. and 2.B. as well as subsections (5)(I) and (6)(F) have been revised.

10 CSR 20-8.300 Design of Concentrated Animal Feeding Operations

(1) Applicability. This rule applies to all new or expanding Concentrated Animal Feeding Operations (CAFOs), however, only those applicants that are constructing earthen basins are required to obtain construction permits. The Missouri Department of Natural Resources (department) will not examine the adequacy or efficiency of the structural, mechanical, or electrical components of the concentrated animal feeding operation systems, only adherence to rules and regulations.

(4) Manure Storage Structure Sizing.

(A) No Discharge Requirement. All manure storage structures shall comply with the design standards and effluent limitations of 10 CSR 20-6.300(4).

(C) New Class I swine, veal, or poultry operations shall evaluate proposed uncovered manure storage structures in accordance with applicable federal regulation as set forth in 40 CFR 412.46(a)(1), November 20, 2008, and shall hereby be incorporated by reference, without any later amendments or additions, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954.

(D) Sizing Manure Storage Structures.

1. The structure shall be designed to hold all inputs, between the upper and lower operating levels, anticipated during the design storage period.

2. Uncovered liquid storage structures shall also include:

A. One in ten (1-in-10) year rainfall minus evaporation from the surface of the structure, held between the operating levels; and

B. Safety volume based on the twenty-five (25) year, twenty-four (24) hour storm event above the upper operating level.

3. Tanks and pits shall also include six inches (6") of depth below the lower operating level for incomplete removal allowance.

4. Earthen basins shall also include:

A. At least one foot (1') of freeboard or two feet (2') for structures that receive storm water from open lots larger than the surface area of the storage structure;

B. Two feet (2') of permanent liquid depth below the lower operating level. Anaerobic treatment volume greater than two feet (2') will satisfy this requirement;

C. Sludge accumulation volume; and

D. Treatment volume below the lower operating level for anaerobic treatment lagoons.

(5) Construction of Earthen basins.

(D) Outer berm slopes shall not be steeper than three to one (3:1), horizontal to vertical and inner slopes not be flatter than four to one (4:1) or steeper than three to one (3:1) for uncovered lagoons or two and one-half to one (2.5:1) for covered lagoons.

(I) If alternative liners are used, permeability, durability, and integrity of the proposed materials must be satisfactorily demonstrated for anticipated conditions.

(M) Operation and Maintenance. An operation and maintenance plan is required addressing the major components of the concentrated animal feeding operation system.

(6) Construction of Tanks and Pits. Construction of tanks and pits shall meet the following requirements:

(F) Design concrete and steel features according to published guidelines; and

(8) Design and Construction of Pipelines, Pump Stations, and Land Application Systems.

(A) General. Design of pipelines shall be based on the following requirements:

1. Ensure the storage/treatment facilities can be emptied within the time limits stated in the nutrient management plan;

2. Convey the required flow without plugging, based on the type of material and total solids content;

3. Install at a depth sufficient to protect against freezing;

4. Install with appropriate connection devices to prevent contamination of private or public water supply distribution systems and groundwater;

5. Size pumps to transfer material at the required system head and volume;

6. Install a minimum of three feet (3') below the natural stream floor and as nearly perpendicular to the stream flow as possible;

7. Encase when buried under public roads; and

8. Separation from potable water lines. Pipelines shall be located at least ten feet (10') horizontally from and at least eighteen inches (18") below the base of any potable water line.

9. Aerial pipeline crossings of streams shall:

A. Provide support for all joints in pipes utilized in the crossing;

B. Protect from the impact of flood waters and debris; and

C. Be constructed so that they will remain watertight and free from changes in alignment or grade.

(9) General System Details.

(B) Potable Water Supply Protection. No piping or other connections shall exist in any part of the concentrated animal feeding

operation system, which under any conditions, might cause the contamination of a potable water supply.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 8—Minimum Design Standards**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission of the State of Missouri under sections 536.023(3) and 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-8.500 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1738–1742). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, department staff provided testimony on the proposed amendment. One (1) general comment was made at the hearing by Mr. Robert Brundage with Newman, Comley, and Ruth. The department received two (2) comment letters during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in subsections (5)(A) and (8)(C).

COMMENT #2: Mr. Stanley J. Thessen with MFA, Incorporated requested that subsection (3)(B) be retained. This subsection included an exemption for liquid fertilizer storage tanks greater than forty thousand (40,000) gallons that were in use prior to January 13, 1992 from the requirement of installing a liner underneath the tank.

RESPONSE AND EXPLANATION OF CHANGE: The language that was previously in subsection (3)(B) has been reinstated at subsection (2)(C).

COMMENT #3: Mr. Stanley J. Thessen with MFA, Incorporated, commented that the term "auxiliary" in subsection (5)(I) should be replaced with "non-mobile" to be consistent with other terminology in this rule.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(I) has been revised to remove the term "auxiliary."

COMMENT #4: Mr. Stanley J. Thessen with MFA, Incorporated, commented that subsection (6)(C) with regard to operational contain-

ment areas to hold pesticides and impregnation equipment should be eliminated as it is covered elsewhere in the rule in regard to operational containment.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (6)(C) refers to design and has been revised to include a reference to the operational section of the rule.

COMMENT #5: Mr. Stanley J. Thessen with MFA, Incorporated, commented that the new requirement at subsection (8)(B) with regard to containment of spilled product and collected precipitation is economically and logistically impossible to meet. Mr. Thessen stated that it was agreed at a stakeholder meeting that "Contain any spilled product" would be retained and the rest of subsection (8)(B) would be eliminated. Mr. Robert Brundage with Newman, Comley, and Ruth also recommended that "any collected precipitation" be deleted from subsection (8)(B). Mr. Brundage noted that the act of spilling product is not a discharge to waters of the State, nor will the operational containment be designed to collect precipitation.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (8)(B) has been revised to provide clarification that any collected and contaminated material must be disposed of properly.

COMMENT #6: Mr. Stanley J. Thessen with MFA, Incorporated, and Mr. Robert Brundage with Newman, Comley, and Ruth commented that the requirements in subsection (8)(C) with regard to minimum volume of operational containment for bulk pesticides and bulk liquid fertilizer for new construction are much more stringent than, and contradict, the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), and implementing regulations.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (8)(C) has been revised to reference FIFRA and correct the contradiction.

COMMENT #7: Mr. Stanley J. Thessen with MFA, Incorporated, and Mr. Robert Brundage with Newman, Comley, and Ruth, commented that the punctuation changes in subsection (9)(B) with regard to design for containment of spillage have totally changed the meaning and vastly increased the scope and associated regulatory burden. Mr. Brundage stated that the regulation currently gives the facility the option to provide either operational containment to clean up spillage or the option to capture and contain precipitation that comes in contact with the operational containment area, but that the new language would require both. Mr. Thessen stated that the changes now require spills from spreading equipment to be captured and stormwater to be collected and disposed, and this places a burden on the regulated community that is not sustainable.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (9)(B) has been revised to clarify that only precipitation that comes in contact with spillage must be contained in this context.

COMMENT #8: Mr. Stanley J. Thessen with MFA, Incorporated, commented that subsection (9)(C) used to require a catchment basin or portable pan/container when there was a potential for a discharge, but that the revised language requires this regardless of the potential for a discharge.

RESPONSE AND EXPLANATION OF CHANGE: The original language has been reinstated in subsections (9)(C) and (9)(D) with a small change to provide additional clarification.

COMMENT #9: Mr. Stanley J. Thessen with MFA, Incorporated, disagreed with the assessment that the proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate. Mr. Thessen stated that the requirement to construct operational containment areas capable of capturing and retaining stormwater, along with the cost of analysis and proper disposal will place a burden on the regulated community that cannot be sustained.

RESPONSE AND EXPLANATION OF CHANGE: Revisions have been made to the rule in response to comments received during the public notice period and summarized in this Order of Rulemaking

under comments #5, #7, and #8. Those revisions address and clarify the requirements of concern noted in this comment. With those revisions, cost will remain under five hundred dollars (\$500).

COMMENT #10: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on section (1) that the language states this rule applies to all new agrichemical facilities. Mr. Brundage asked for clarification that this means the regulation does not apply to agrichemical facilities that existed prior to the adoption of this revised regulation.

RESPONSE: The word “new” has been removed from section (1) to provide clarity. This regulation is applicable to all agrichemical facilities. Existing systems are held to the standards that were in place at the time of construction. No changes were made as a result of this comment.

COMMENT #11: Mr. Robert Brundage with Newman, Comley, and Ruth, recommended that section (4) be retained to allow for situations where deviations would be appropriate.

RESPONSE: The amended rules are intended to provide an accepted and uniform minimum set of standards. Deviations will not be allowed because the proposed rules only mandate minimum design standards. No changes were made as a result of this comment.

COMMENT #12: Mr. Robert Brundage with Newman, Comley, and Ruth, commented on subsection (5)(A) that EPA’s FIFRA regulation 40 CFR Part 165.85(c)(1) and (2) are incorporated by reference. Mr. Brundage recommends that this subsection also incorporate subsections (3) and (4) of 40 CFR Part 165.85(c). Sections (3) and (4) of 40 CFR Part 165.85(c) provide the containment and the operational containment volume requirements that are discussed in subsection (8)(C) of this rule.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(A) has been revised to reference all of 40 CFR Part 165.85.

COMMENT #13: Mr. Robert Brundage with Newman, Comley, and Ruth, requested that subsection (6)(B) be deleted because sizing of the dry operational containment area is referenced in another subsection.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (6)(B) refers to design and has been revised to include a reference to the operational section of the rule.

COMMENT #14: The following administrative changes have been noted for correction: A numerical reference should be spelled out in subsection (5)(E). A space is needed between “liner and with” in paragraph (5)(J)1. and the numbering of sections should be corrected.

RESPONSE AND EXPLANATION OF CHANGE: Subsection (5)(E), paragraph (5)(J)1., and section numbering has been revised.

10 CSR 20-8.500 Design Requirements for Agrichemical Facilities

(1) Applicability. This rule applies to all agrichemical facilities and to the construction of new secondary and operational containment of agrichemicals at existing facilities. All facilities to which this rule applies shall be designed as no-discharge systems.

(2) Exceptions.

(C) Liquid fertilizer storage tanks that were in use prior to January 13, 1992, having a storage capacity greater than forty thousand (40,000) gallons are exempt from the requirement of installing a liner underneath the tank itself. Spill containment diking is required around these tanks.

(5) Secondary Containment for Bulk Liquid Agrichemicals for new construction. Secondary containment for nonmobile bulk liquid pesticides and nonmobile bulk liquid fertilizers shall be designed to con-

tain any spilled product to prevent a discharge with—

(A) Containment structures sized according to the Environmental Protection Agency’s Code of Federal Regulations, 40 CFR 165.85, published July 1, 2014. This document shall hereby be incorporated by reference without any later amendments or modifications. To obtain a copy, contact the U.S. Government Printing Office at 732 North Capitol Street NW, Washington, DC, 20401, toll free at (866) 512-1800 or by visiting <https://bookstore.gpo.gov>;

(E) A collection sump, if needed, shall not be more than two feet (2’) deep or larger than twenty (20) cubic feet; constructed of materials that resist penetration by moisture and agrichemicals; with a sealed connection point between the containment area floor; and at a low point in the containment area to allow for removal of accumulated liquids;

(I) All tanks for storage of rinsate or precipitation collected in the secondary or operational containment area located within a secondary containment structure.

(J) Earthen structures used for secondary containment shall be designed as follows:

1. Be constructed with a compacted soil liner or synthetic liner with a permeability rate of 1×10^{-7} cm/sec. or less.

2. Be protected against erosion with side slopes no steeper than three to one (3:1) and with a top width no less than two and one-half feet (2 1/2’).

(6) Nonmobile bulk dry fertilizer storage shall be designed to—

(B) Allow for all unloading, loading, mixing, and handling of dry bulk fertilizers to be done on an operational containment area as required in section (9) of this rule;

(C) Have an adequately sized operational containment area to hold the volume of pesticides used and impregnation equipment as required in section (9) of this rule;

(8) Operational containment for bulk liquid pesticides and bulk liquid fertilizers for new construction shall be designed to:

(B) Contain any spilled product and any collected precipitation that comes in contact with spillage for the amount of time needed for proper cleanup and recovery;

(C) Have a minimum volume in accordance with the Environmental Protection Agency’s *Code of Federal Regulations*, 40 CFR 165.85, published July 1, 2014. This document shall hereby be incorporated by reference without any later amendments or modifications. To obtain a copy, contact the U.S. Government Printing Office at 732 North Capitol Street NW, Washington, DC, 20401, toll free at (866)512-1800 or by visiting <https://bookstore.gpo.gov>;

(9) Operational Containment Area for bulk dry pesticides and bulk dry fertilizers for new construction shall be sized to—

(B) Contain any spillage of dry materials that occurs from loading, unloading, or hauling; from spreading equipment; and from mixing and blending equipment. Operational containment areas must also contain precipitation that comes in contact with spillage for the amount of time needed for proper cleanup and recovery;

(C) Individual catchment basins or portable pans/containers may be used to satisfy the requirement for operational containment. The individual basins or portable containers shall be placed to catch or recover spillage and leakage from transfer connections and conveyors; and

(D) For unloading dry pesticides and dry fertilizers from rail cars, a catchment basin or concrete pad that can effectively contain the dry fertilizer or pesticide shall be used.

(10) Operation and Management of Agrichemical Facilities. Field application of rinsate and collected precipitation is acceptable and recommended.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 9—Treatment Plant Operations**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-9.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* July 16, 2018 (43 MoReg 1742–1743). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received three (3) comments during the public comment period. One (1) error was identified by department staff.

COMMENT #1: Mr. John Reece, Clean Water Commissioner and Hearing Officer, asked questions during the public hearing related to the operational monitoring differences between aerobic and anaerobic digesters found under 10 CSR 20-9.010(5). He commented that additional clarification is needed, and that temperature is not usually measured in aerobic digesters.

RESPONSE: The department agrees. The proposed amendments do not require operational monitoring of temperature for aerated digesters in 10 CSR 20-9.010. The dash (-) in the "temperature" row under the "Aerobic" heading indicates that temperature monitoring is not required for aerobic digesters. The proposed amendment includes temperature monitoring for all anaerobic sludge digesters and removes the phrase "if heated." No changes to the rule have been made as a result of this comment.

COMMENT #2: C. Wulff commented that the department should not change 10 CSR 20-9.010. The comment was that stronger regulation of CAFOs is needed for the protection of groundwater.

RESPONSE: 10 CSR 20-9.010 does not apply to concentrated animal feeding operations, or CAFOs. No changes to the rule have been made as a result of this comment.

COMMENT #3: Robert Brundage, Newman, Comley, and Ruth, made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: The word "shall" will be restored in section (4).

COMMENT #4: Department staff identified a typographical error in section (2). The term "Missouri State Operating Permit" should appear before the acronym (MSOP).

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting this error.

10 CSR 20-9.010 Wastewater Treatment Systems Operation Scope Monitoring

(2) Operational laboratory tests and related monitoring for wastewater treatment systems control are a supplement to the Missouri State Operating Permit (MSOP) requirements. These operational monitoring reports shall be submitted to the department along with the MSOP discharge monitoring reports.

(4) These requirements for laboratory tests shall apply to all wastewater treatment systems owned or operated by or for municipalities, public sewer districts, or other local government entities, private sewer companies regulated by the Public Service Commission, and the state agencies or any subdivision of them, with a population equivalent, as defined in 10 CSR 20-9.020, greater than two hundred (200). All other systems are exempt.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 20—Clean Water Commission
Chapter 9—Treatment Plant Operations**

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-9.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* July 16, 2018 (43 MoReg 1743–1746). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received two (2) comments during the public comment period.

COMMENT #1: Mr. John Reece, Clean Water Commission and Hearing Officer, asked questions during the public hearing related to uncertified staff working at wastewater treatment facilities. He stated the subject was touchy and needed more explanation. He also commented that he didn't think a lot of small communities would report when they've had a change in staff.

RESPONSE: The department is proposing to include language in 10 CSR 20-9.020(2)(C) that recognizes the need for systems to hire new employees that are not yet certified and allow for some flexibility for them to be at the wastewater plant as they work toward certification. This flexibility was requested from stakeholders during the January 2018 stakeholder meeting. The proposed language states that new employees that are not yet certified wastewater treatment operators cannot make process control decisions and will be directly supervised by a certified operator or chief operator. This allows uncertified employees to perform duties as assigned by, and under the supervision of, the certified operator or chief operator, while still protecting water quality.

Additionally, the department is proposing to add language in 10 CSR 20-9.020(2)(F) that addresses situations when a chief operator

is no longer available to serve as the operator. The amendment requires the system to notify the department of the vacancy within fifteen (15) calendar days and appoint an interim operator. The department, following consultation with the wastewater system owner, will establish a schedule of activities and a timeline for the system to have a certified chief operator who has met all applicable certification requirements. No changes to the rule have been made as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following change has been made: the word "shall" will be restored in the amended rule at (1) Definitions.

10 CSR 20-9.020 Classification of Wastewater Treatment Systems

(1) Definitions. Definitions as set forth in the Missouri Clean Water Law and 10 CSR 20-2.010 shall apply to those terms when used in this rule, unless the context clearly requires otherwise or as noted in the subsections of this rule.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 9—Treatment Plant Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-9.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* July 16, 2018 (43 MoReg 1746–1749). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. One (1) comment during the public comment period. Two (2) errors were identified by the department.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Department staff identified a typographical error in subsection (3)(B).

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting this error.

COMMENT #3: Department staff identified a typographical error in subsection (4)(A).

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting this error.

10 CSR 20-9.030 Certification of Wastewater Operators

(3) Certification of Competency.

(B) Certifications at the appropriate level shall be issued to individuals successfully passing the certification examination and fulfilling experience requirements of subsection (3)(I) of this rule. The expiration date of the certifications shall coincide with renewal requirements as provided in subsection (4)(B) of this rule. An examination score of seventy percent (70%) correct shall be considered a passing grade.

(4) Certificate Renewal.

(A) All certificates issued by the department shall be renewed at least every three (3) years, unless prorated by the department to some other time frame. All applicants for renewal shall meet the training requirements set forth in subsection (4)(B) prior to the expiration date stated on each individual's certificate.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 20—Clean Water Commission Chapter 14—Concentrated Animal Feeding Operation Waste Management System Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-14.010 Classification of Concentrated Animal Feeding Operation Waste Management Systems is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1749). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received twelve (12) comments during the public comment period.

COMMENT #1: Ms. Jeanne Heuser provided comments at the public hearing on August 15, 2018, as well as in writing on August 23, 2018. She asked questions during the public hearing about the timing of when operator certifications are issued to individuals. Her written comment states the importance of proper certification of CAFO operators and that there should be no lessening of the certification requirements.

RESPONSE: The department appreciates Ms. Heuser's comments and agrees that properly certified operators play a critical role in the protection of public health and the environment. The department would like to clarify that the proposed amendments to 10 CSR 20-14.010 do not modify which systems the rule applies to, and does not propose to change current requirements for those systems to be operated by certified personnel. No changes to the rule have been made as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENTS #3-#11: Comments from the following individuals were similar in nature and combined: Arlene Sandler, Maisah Khan with the Missouri Coalition for the Environment (MCE), Dana Gray, Barry Leibman, Joyce Wright, Kathleen Dolson, Francine Glass, Stacy Cheavens, and Lauri Lakebrink. A summary of their comments is that the current rule, 10 CSR 20-14.010, should not be changed. Confined Animal Feeding Operations (CAFOs) should be held to the strictest environmental requirements due to their potential to pollute groundwater, cause air pollution, and contribute to nitrates in drinking water. The proposed changes reduce the minimum standards required to become a CAFO Waste Management System Operator and make it easier to become an operator. No changes should be made.

RESPONSE: The department would like to clarify that the proposed amendment does not change the number or types of systems required to have certified operators, but it does remove language related to wet and dry certificates. The proposed amendment does not affect permit conditions that class IA CAFO systems are required to meet through Missouri State Operating Permits. The proposed rule changes continue to provide protection of public health and the environment, maintain Missouri's operator certification program for CAFOs, which is one of the nation's most prescriptive programs, while still allowing for some reduction in burden. The department appreciates the comments submitted. No changes were made as a result of this comment.

COMMENT #12: Margaret O'Gorman, Franciscan Sisters of Mary, commented that making it easier to establish CAFOs, and limiting restriction on their waste management is detrimental to the health of those who live nearby, endangers or threatens the water supply, fish and other aquatic life.

RESPONSE: 10 CSR 20-14.010 does not provide for the construction or operation of CAFOs. This comment is more appropriately related to 10 CSR 20-6.300 and 10 CSR 20-8.300. No changes to the

rule have been made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission

Chapter 14—Concentrated Animal Feeding Operation Waste Management System Operations

ORDER OF RULEMAKING

By the authority vested in the Clean Water Commission under section 644.026, RSMo 2016, the commission amends a rule as follows:

10 CSR 20-14.020 Certification of Concentrated Animal Feeding Operation Waste Management System Operators is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1749-1751). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Water Protection Program staff provided testimony on the proposed amendment. The department received eight (8) comments during the public comment period.

COMMENT #1: Ms. Jeanne Heuser provided comments at the public hearing on August 15, 2018, as well as in writing on August 23, 2018. She asked questions during the public hearing about the timing of when operator certifications are issued to individuals. Her written comment states the importance of proper certification of CAFO operators and that there should be no lessening of the certification requirements.

RESPONSE: The department appreciates Ms. Heuser's comments and agrees that properly certified operators play a critical role in the protection of public health and the environment. The proposed amendment changes do provide some reduction in burden and streamlines the certification process for individuals seeking CAFO operator certification. The rule continues to provide protection of public health and the environment, maintains Missouri's operator certification program for CAFO operators, which is one of the nation's most prescriptive programs, while still allowing for some reduction in burden. No changes were made as a result of this comment.

COMMENT #2: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent (30%) reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENTS #3-#8: Comments from the following individuals were similar in nature and combined: Caroline Pufalt from the Sierra Club MO Chapter, Maisah Khan with the Missouri Coalition for the Environment (MCE), Dana Gray, Barry Leibman, Joyce Wright, and Kathleen Dolson. A summary of their comments is that the proposed changes in this rule reduce the minimum standards required to become a Confined Animal Feeding Operation (CAFO) Waste Management System Operator and make it easier to become an operator. Don't change 10 CSR 20-14.

RESPONSE: The department appreciates the comments. The department would like to clarify that the proposed amendment does not change the number or types of systems required to have certified operators. Class IA CAFO systems continue to be required to meet conditions in Missouri State Operating Permits. The proposed amendment changes continue to provide protection of public health and the environment, maintain Missouri's operator certification program for CAFOs, which is one of the nation's most prescriptive programs, while still allowing for some reduction in burden for individuals achieving certification. No changes were made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 60—Safe Drinking Water Commission

Chapter 3—Permits

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-3.010 Construction Authorization, Final Approval of Construction, Owner-Supervised Program, and Permit to Dispense Water is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1802-1803). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. The department received six (6) comments during the public comment period.

COMMENT #1: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, commented that the minimum number of connections that are regulated by the department should be changed from fifteen (15) connections to fifty (50) connections.

RESPONSE: A community water system is defined by the Safe Drinking Water Regulations as a public water system which serves at least fifteen (15) connections and is operated on a year-round basis or regularly serves at least twenty-five (25) residents on a year round basis. This regulation is based on the Environmental Protection Agency's (EPA) definition of a community water system as defined in the *Code of Federal Regulations*. The state's definition cannot be less stringent than the federal definition in order for the state to continue as the regulating authority for Missouri public water systems. No change was made to the rule as a result of this comment.

COMMENT #2: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, requested additional construction authorization exemptions for small systems such as theirs (twenty-four (24) connections)

be added to 10 CSR 60-3.010. An example Mr. Metzger provided was replacing four (4) eighty-six (86) gallon bladder tanks, due to failures, with four (4) one hundred nineteen (119) gallon bladder tanks. He noted under the rule this project would have required a construction permit as well as preparation of an engineering report, plans, and specifications, and inspection of construction for the purpose of compliance with the drawings by a professional engineer. His comment expressed difficulty finding an engineer for these small projects and noted the cost of an engineer would have tripled the cost of the project, taken months to complete, and would have ended up with the same mechanical result. He noted this is a common occurrence for small systems. He commented that these small systems currently sit on their hands and make minimal repairs and improvements mostly due to all the departments required red tape and additional engineering tasks that are not readily available due to the extremely small size of the project. Thus, these small systems suffer in quality and poor reliability. He stated most of the Safe Drinking Water Laws are designed to address large water distribution systems, but the number of small systems with less than one hundred (100) connections is quite a large number as well. However, these small systems are not considered at all when these rules are developed and modified.

RESPONSE: Missouri state statute (section 640.115, RSMo.) requires all public water systems to file a certified copy of the plans and surveys of the water system and to obtain a written permit of approval prior to use of the system. The Missouri Safe Drinking Water Regulations implement the Missouri Safe Drinking Water Law and therefore, must require the submittal of a permit application and the submittal of plans and specifications as noted in the statute. The department understands that engineering design will add to the cost of projects, but it is necessary to comply with the state law and to ensure projects are designed safely and in a manner that will ensure compliance with the regulations.

The department added, as part of this proposed rule amendment, language to exempt public water systems from having to obtain construction authorization for what is considered routine repair and maintenance by allowing the replacement of certain system components with the same size and type of component often referred to as "like for like." The department did not include exemptions for situations where the components have an increase in size or change in type as this could affect the system's design capacity or treatment processes and would require submittal of a construction permit application, plans, specifications, and possibly an engineering report. The example given by Mr. Metzger would be exempt if the four (4) storage tanks were replaced with four (4) tanks of the same size and type, however, since there was an increase in storage tank capacity written construction authorization prior to construction must be obtained from the department. No change to the rule was made as a result of this comment.

COMMENT #3: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, commented that 10 CSR 60-10.010(2) states plans and specifications are required when expansions or modifications of existing water treatment facilities would significantly change or alter plant capacity or treatment processes. He commented this appears to be a judgement call as to if and when plans, specifications, and a construction permit are required.

RESPONSE: This comment cites a rule that is not part of this rulemaking and as such falls outside the scope of this rulemaking. 10 CSR 60-3.010(1)(A) Written Construction Authorization does state that "A supplier of water which operates a community water system must obtain written authorization from the department prior to construction, alteration or extension of any community water system, unless the project will be constructed under the provisions of 10 CSR 60-10.010(2)(C)2." No change was made as a result of this comment.

COMMENT #4: Mr. Paul Metzger, with the Mills Creek Shores Subdivision, requested that small systems be capable of becoming Owner Supervised Systems in regards to their treatment systems.

RESPONSE: Owner Supervised Programs are described in 10 CSR 60-10.010(2)(C)2. which states, "A supplier of water to a community water supply that desires to conduct a supervised program for construction of water distribution systems, in lieu of submitting plans for approval, must submit to the department a written request for approval." Owner Supervised Programs are only applicable to distribution systems so treatment and source systems are required to submit and obtain written construction authorization. Since 10 CSR 60-3.010 is not the rule that covers Owner Supervised Program, this comment falls outside the scope of this rulemaking. No change has been made as a result of this comment.

COMMENT #5: Commissioner Rodger Owens of the Safe Drinking Water Commission inquired about the newly added exemption for subdivisions where each lot or tract is supplied by a private well with no interconnections to a distribution system. He inquired if a private subdivision had an interconnection with a public water system as an emergency connection would it still be considered a private system or would it be public.

RESPONSE: The department would consider any well or emergency connection from a private subdivision to a public water system to be a part of the regulated public water system and thus making it subject to the construction requirements of this rule. No change was made to the rule as a result of this comment.

COMMENT #6: Commissioner Rodger Owens of the Safe Drinking Water Commission, inquired if a private subdivision would be eligible for the same benefit as public systems, such as eligibility for loans and grants to upgrade their system for emergencies or fire protection.

RESPONSE: The purpose of the proposed rule amendment was to establish requirements related to construction authorization for public water systems. Funding for public water system construction projects is not within the scope of this rule. No change was made to the rule as a result of this comment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-3.020 Continuing Operating Authority is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1803-1804). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 3—Permits**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-3.030 Technical, Managerial, and Financial Capacity is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1804-1805). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.022 Revised Total Coliform Rule is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1805-1808). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.025 Ground Water Rule Monitoring and Treatment Technique Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1809-1812). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.050 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1812–1813). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received. One (1) typographical error was identified by the department.

COMMENT: Department staff identified a typographical error in a rule reference in paragraph (3)(D)1. The reference should reflect the renumbering of section (4) to (3).

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

10 CSR 60-4.050 Maximum Turbidity Levels and Monitoring Requirements and Filter Backwash Recycling

(3) Filter Backwash Recycling.

(D) Record Keeping. The system must collect and retain on file recycle flow information for review and evaluation by the department. This information shall include, but may not be limited to:

1. A copy of the recycle notification and information submitted to the department under subsection (3)(B) of this rule;
2. A list of all recycle flows and the frequency with which they are returned;
3. Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;
4. Typical filter run length and a written summary of how filter run length is determined;
5. The type of treatment provided for the recycle flow; and
6. Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.052 Source Water Monitoring and Enhanced Treatment Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1813–1816). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.055 Disinfection Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1816–1819). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1819–1820). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period

ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received. One (1) error was identified by the department.

COMMENT: Department staff identified an incorrect incorporation of a document by reference in paragraph (1)(C)2.

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

10 CSR 60-4.060 Maximum Radionuclide Contaminant Levels and Monitoring Requirements

(1) Maximum Contaminant Levels (MCL).

(C) MCL for Beta Particle and Photon Radioactivity.

1. The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water must not produce an annual dose equivalent to the total body or any internal organ greater than four (4) millirem/year (mrem/year).

2. Except for the radionuclides listed in Table A, the concentration of man-made radionuclides causing four (4) mrem total body or organ dose equivalents must be calculated on the basis of two (2) liter per day drinking water intake using the one hundred sixty-eight (168) hour data list in "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," NBS (National Bureau of Standards) Handbook 69 as amended August 1963, U.S. Department of Commerce, which is incorporated by reference without any later amendments or modifications. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) mrem/year.

Table A.—Average Annual Concentrations Assumed to Produce a Total Body or Organ Dose of Mrem/Year

Radionuclide	Critical Organ	pCi per Liter
Tritium	Total body	20,000
Strontium-90	Bone Marrow	8

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 60—Safe Drinking Water Commission Chapter 4—Contaminant Levels and Monitoring

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.080 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1820–1824). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received during the public hearing. One (1) comment was received during the public comment period.

COMMENT #1: Mr. Randy Norden, Executive Director of the Missouri Rural Water Association commented that, the operational monitoring chart, would be more correct if a footnote to the chart,

number three (3), had the language amended from "all public water systems that add a disinfectant" to "all public water systems that add a chlorine disinfectant or that deliver water that has a chlorine disinfectant."

The Maximum Residual Disinfectant Levels (MRDLs) apply to non-transient non community and community systems, including those that are secondary water systems. The Public Drinking Water Branch determines compliance with the MRDLs by reviewing the disinfectant levels on the bacteriological analysis cards. This change will make it clear that the secondary water systems are required to monitor their chlorine residuals at the time they collect their bacteriological samples.

RESPONSE AND EXPLANATION OF CHANGE: The department concurs with the recommended change. The operational chart (3) footnote number three (3) will be changed to add that all public water systems that deliver water that has a chlorine disinfectant must also monitor the chlorine residuals.

10 CSR 60-4.080 Operational Monitoring

(3) Sufficient analyses must be done to assure control of water quality, the following requirements notwithstanding. Continuous monitoring and recording may be used for any operational analysis instead of grab sampling provided that the requirements of section (2) are met. For those analyses where continuous monitoring is required, if there is a failure in the continuous monitoring equipment, grab sampling every four (4) hours of operation may be conducted in lieu of continuous monitoring but for no more than five (5) working days following the failure of the equipment. Applicable analyses and testing frequencies are as follows:

Test	Frequency	Sample Location	Treatment	Treatment	Treatment	Treatment
Alkalinity	As necessary for control	Raw Water	Clarification	Lime Softening		
Alkalinity	As necessary for control	Entry to distribution system	Clarification	Lime Softening		
Disinfection residual (1)	Continuous	Entry to distribution system				
Disinfection residual (2)	Daily	Entry to distribution system				
Disinfection residual (3)	At time of total coliform sampling	Total coliform sampling points				
Disinfection residual (4)	Monday-Friday, excluding federal holidays and days not serving water to the public	Entry to distribution system				
Disinfection residual	Start up and every 2 hours of operation	Filter influent and effluent	Clarification	Lime softening		
Fluoride (if compounds added)	Daily	Entry to distribution system	Fluoride adjustment			
Fluoride (if compounds added)	Quarterly	Representative point in distribution system	Fluoride adjustment			
Hardness (5)	Monday-Friday, excluding federal holidays and days not serving water to the public	Entry to distribution system	Ion Exchange softening			
Hardness	Daily	Entry to distribution system		Clarification	Lime Softening	
Hardness	As necessary for control		Ion Exchange softening			
Iron	As necessary for control	Filter influent and effluent	Iron removal	Clarification	Lime softening	
pH	As necessary for control	Entry to distribution system	Iron removal	Clarification	Lime softening	
pH	As necessary for control	Raw water	Clarification			
pH	As necessary for control	Filter effluent	Iron removal			
pH	As necessary for control	Primary and secondary basins	Lime softening			
pH(7)	As necessary for control	Entry to distribution system				

Phosphate (6)	As necessary for control	Downstream from point of application				
Sludge Concentration (9)	As necessary for control	Center cone and sludge blowoff and sample taps	Clarification	Lime softening		
Temperature (7)	As necessary for control	Entry to distribution system	Disinfection	Iron removal	Clarification	Lime softening
Turbidity(8)	Every four (4) hours	Combined filter effluent				
Turbidity (8)	continuously	Individual filter effluent				
Turbidity	As necessary for control	Entry point to distribution and filter influent	Iron removal	Clarification	Lime softening	

- (1) Surface water and Groundwater under the Direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025 serving >3,300 population.
- (2) Surface water, ground water under the direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025 serving <3,300 population. Lime softening, iron removal and systems directed by a compliance agreement to disinfect.
- (3) All public water systems that add a chlorine disinfectant or that deliver water that has a chlorine disinfectant.
- (4) Systems not required to disinfect. This excludes Surface water, Ground water under the direct influence of surface water, compliance monitoring systems under 10 CSR 60-4.025, lime softening, iron removal and systems directed by a compliance agreement to disinfect. An alternate frequency may be agreed upon in writing by the water system and the department, if warranted.
- (5) If ion exchange softening is required of water system to meet national primary drinking water standards (ie. lead, radionuclides).
- (6) If phosphate compounds are added to the water.
- (7) Surface water and Groundwater under the Direct influence of surface water and compliance monitoring systems under 10 CSR 60-4.025.
- (8) Surface water and Groundwater under the Direct influence of surface water.
- (9) For facilities utilizing solids contact basins.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission rescinds a rule as follows:

10 CSR 60-4.090 Maximum Contaminant Levels and Monitoring Requirements for Disinfection By-Products **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1824). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed rescission. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.094 Disinfectant Residuals, Disinfection Byproduct Precursors and the Stage 2 Disinfectants/Disinfection Byproducts Rule **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1824–1834). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 4—Contaminant Levels and Monitoring**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-4.100 Maximum Volatile Organic Chemical Contaminant Levels and Monitoring Requirements **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1834–1835). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 6—Enforcement**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-6.060 Waivers From Baseline Monitoring Requirements **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1835–1836). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 6—Enforcement**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-6.070 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1836–1837). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. One (1) comment was received.

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to

suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from “shall” to “will.” Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND SUMMARY OF CHANGE: The department is revising language in paragraph (2)(B)1., to retain the word “shall” in order to clarify the department’s obligation.

10 CSR 60-6.070 Administrative Penalty Assessment

(2) Definitions.

(B) Additional definitions specific to this rule are as follows:

1. Conference, conciliation, and persuasion. A process of verbal or written communications consisting of meetings, reports, correspondence, or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one (1) offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and attempt to agree upon a plan to achieve compliance;

2. Gravity-based assessment. The degree of seriousness of a violation taking into consideration the risk to human health or the environment posed by violations of sections 640.100 to 640.140, RSMo, and associated rules and permits;

3. Major violation. A violation that poses or may pose a substantial risk to human health or to the environment, or has or may have a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules or permits;

4. Minor violation. A violation that poses a small potential to harm the environment or human health or cause pollution, and was not knowingly committed;

5. Moderate violation. A violation that poses or may pose a significant risk to human health or to the environment, or has or may have a significant adverse effect on the purposes of or procedures for implementing the law and associated rules or permits;

6. Multiple violation penalty. The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action;

7. Multi-day violation. A violation that has occurred on or continued for two (2) or more consecutive or nonconsecutive days; and

8. Potential for harm. The extent to which a violation poses a risk to human health or the environment or has a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules or permits.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 60—Safe Drinking Water Commission Chapter 7—Reporting

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-7.010 Reporting Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1837–1843). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

od ended August 23, 2018. At the public hearing, the department’s public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 60—Safe Drinking Water Commission Chapter 8—Public Notification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-8.010 Public Notification of Conditions Affecting a Public Water Supply is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1843–1848). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 60—Safe Drinking Water Commission Chapter 8—Public Notification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-8.030 Consumer Confidence Reports is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1848–1860). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES Division 60—Safe Drinking Water Commission Chapter 9—Record Maintenance

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule

as follows:

10 CSR 60-9.010 Requirements for Maintaining Public Water System Records is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1860). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 11—Backflow Prevention**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-11.010 Prevention of Backflow is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1860-1861). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 11—Backflow Prevention**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-11.030 Backflow Prevention Assembly Tester Certification is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1861). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period

ended August 23, 2018. At the public hearing, the department's public drinking water branch staff provided testimony on the proposed amendment. No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 13—Grants and Loans**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.010 Grants for Public Water Supply Districts and Small Municipal Water Supply Systems is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1861-1863). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. No public comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 13—Grants and Loans**

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1863-1875). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. The department received two (2) comments during the public comment period.

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from "shall" to "should" or "are to." Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

COMMENT #2: Department staff noticed a typographical error in the proposed new language in paragraph (2)(I)8. The language was incorrectly proposed as “section 290.210–290.340.”

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

COMMENT #3: Ms. Lacey Hirschvogel, with the Missouri Public Utility Alliance (MPUA), commented on new subsection (3)(G). She requested that the phrase “loan repayment period,” be replaced with “a 20-year straight-line depreciation schedule.” Ms. Hirschvogel also stated that, alternatively, this provision could be modified to use a depreciation schedule of the longer of (a) 20 years or (b) the original repayment term of the DWSRF loan for the project. She went on to say that use of the phrase “loan repayment period” has the potential to lead to inequalities in application of this provision among DWSRF grant recipients. Examples of this inequality could include if the recipient received a grant only and did not have a loan repayment period or if the recipient pays off the loan early.

RESPONSE AND EXPLANATION OF CHANGE: The department proposed this new subsection to clarify the procedures for when a DWSRF financed facility is sold. However, the proposed language does not fully clarify these procedures, as noted by the comment. Therefore, the department is adding the language from the comment, along with more language not specified in the comment, to further clarify the procedures. The added language will also address the specific case, albeit a rare one, when a facility is financed with grant only funds as described in the comment. A partial change has been made to this rule as a result of this comment.

10 CSR 60-13.020 Drinking Water State Revolving Fund Program

(2) Requirements for Assistance Recipients. This section applies to recipients of the DWSRF program.

(I) Specifications. The construction specifications must contain the following:

1. Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description, in competitive procurement, shall not contain features which unduly restrict competition unless the features are necessary to test or demonstrate a specific thing or to provide for interchangeability of parts and equipment. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use;

2. The recipient shall avoid the use of detailed product specifications if at all possible;

3. When, in the judgment of the recipient, it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a brand name as a means to define the performance or other salient requirements of an item to be procured. The recipient need not establish the existence of any source other than the named brand. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerors and that other brands may be accepted;

4. Sole source restriction. A specification shall not require the use of structures, materials, equipment, or processes which are known to be available only from a sole source, unless the department determines that the recipient's engineer has adequately justified in writing to the department that the proposed use meets the particular project's minimum needs;

5. Experience clause restriction. The general use of experience clauses is restricted to special cases.

A. The general use of experience clauses requiring equipment manufacturers to have a record of satisfactory operation for a specified period of time or of bonds or deposits to guarantee replacement in the event of failure is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing.

Where this justification has been made, submission of a bond or deposit shall be permitted instead of a specified experience period. The period of time for which the bond or deposit is required shall not exceed the experience period specified;

B. The general use of experience clauses requiring contractors to have a record of satisfactory experience for a specified period of time or the completion of a specified number of similar projects is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing. Such justification shall not unduly restrict competition or result in excessive bonding requirements. Where this justification has been made, submission of a bond or deposit shall be permitted instead of the specified experience. The period of time for which the bond or deposit is required shall not exceed the experience period specified;

6. Domestic products procurement law requirements in accordance with sections 34.350–34.359, RSMo;

7. Bonding. On construction contracts exceeding fifty thousand dollars (\$50,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

8. State wage determination in accordance with sections 290.210 to 290.340, RSMo and 8 CFR 30 chapter 3;

9. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms requirements in accordance with 2 CFR 200.321 and 40 CFR part 33.

10. Debarment/suspension requirements in accordance with 2 CFR part 180 subpart C;

11. Right of entry to the project site shall be provided for representatives of the department, EIARA, the Missouri State Auditor, and U.S. Environmental Protection Agency so they may have access to the work wherever it is in preparation or progress;

12. The following statement: “The owner shall make payment to the contractor in accordance with section 34.057, RSMo”;

13. Contractors must comply with the Davis-Bacon requirements in accordance with 29 CFR 5.5. The current Davis-Bacon wage rate from the United States Department of Labor must be incorporated in the bid documents; and

14. American Iron and Steel. Specifications shall adhere to requirements to utilize American Iron and Steel for projects involving the construction, alteration, maintenance, or repair of a public water system, when applicable. The department will publish the American Iron and Steel requirements in the annual intended use plan.

(M) Progress Payments to Contractors.

1. Recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies, and equipment costs in accordance with section 34.057, RSMo.

2. Retention from progress payments. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

(3) DWSRF Direct Loans.

(D) Amortization Schedules. The following guidelines shall be used to establish amortization schedules under this rule:

1. The bonds, notes, or other debt obligations shall be fully amortized as outlined in 40 CFR 35.3525;

2. Principal payment frequency shall be no less than annual and interest payments at least semi-annual;

3. The amortization schedule may either be straight line or declining schedules for the term of the debt obligation. The department may approve an alternative amortization method if deemed appropriate; and

4. Repayment of principal shall begin not later than one (1) year after initiation of operation.

(G) If at any time the public water system or any part thereof,

funded with a DWSRF grant is sold, either outright or on contract for deed, to other than a political subdivision of the state, the department shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a twenty- (20-) year straight-line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 13—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.025 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1875–1885). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Financial Assistance Center staff provided testimony on the proposed amendment. One (1) public comment was received and department staff provided two (2) comments on the proposed amendment.

COMMENT #1: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from "shall" to "are to be" or "should." Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

COMMENT #2: In paragraph (8)(C)1., the department identified that the proposed language of "reviewed by final approval" should be modified to read "submitted by construction completion." This modified language is to provide clarity to the rule and to be consistent with 10 CSR 60-13.020(2)(D)1.

RESPONSE AND EXPLANATION OF CHANGE: Department staff concur with the change. A change has been made to the rule as a result of this comment.

COMMENT #3: In paragraph (8)(H)7., the department identified that the proposed maximum amount of one hundred fifty thousand dollars (\$150,000) should be changed to fifty thousand dollars (\$50,000). This was an oversight in the development of the proposed amendment language and should be corrected. This requirement was correctly proposed in 10 CSR 60-13.020(2)(I)7. The maximum amount of fifty thousand dollars (\$50,000) is required by section 107.170, RSMo.

RESPONSE AND EXPLANATION OF CHANGE: A change has been made to the rule as a result of this comment.

10 CSR 60-13.025 State Loan Program

(7) Amortization Schedules. The following guidelines shall be used to establish amortization schedules under this rule:

(8) Requirements for Loan Recipients.

(C) Operation and Maintenance.

1. Operation and maintenance manual. The recipient must make provision satisfactory to the department for assuring operational efficiency be achieved as quickly as possible and effective operation and maintenance of the constructed project throughout its design life. If required by the department, recipients will develop an operation and maintenance manual in accordance with departmental guidelines. A draft operation and maintenance manual must be submitted by construction completion.

2. Start-up training. At construction completion, a start-up training proposal (if required) and proposed follow-up services contract must be submitted.

3. Personnel. The recipient must make provision satisfactory to the department for assuring that operator(s) and maintenance personnel are hired in accordance with an approved schedule.

4. System certification. If required by the department, one (1) year after initiation of operation of the constructed public water system, the recipient shall certify to the department whether or not the public water system meets the project performance standards. Any statement of noncompliance must be accompanied by a corrective action report containing an analysis of the cause of the project's inability to meet performance standards, actions necessary to bring it into compliance, and reasonably scheduled date for positive certification of the project. Timely corrective action shall be executed by the recipient.

(H) Specifications. The construction specifications must contain the following:

1. Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. The description, in competitive procurement, shall not contain features which unduly restrict competition unless the features are necessary to test or demonstrate a specific thing or to provide for interchangeability of parts and equipment. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use;

2. The recipient shall avoid the use of detailed product specifications if at all possible;

3. When in the judgment of the recipient it is impractical or uneconomical to make a clear and accurate description of the technical requirements, recipients may use a brand name or equal description as a means to define the performance or other salient requirements of a procurement. The recipient need not establish the existence of any source other than the named brand. Recipients must state clearly in the specification the salient requirements of the named brand which must be met by offerers;

4. Sole source restriction. A specification shall not require the use of structures, materials, equipment, or processes which are known to be available only from a sole source, unless the department determines that the recipient's engineer has adequately justified in writing to the department that the proposed use meets the particular project's minimum needs;

5. Experience clause restriction. The general use of experience clauses requiring equipment manufacturers to have a record of satisfactory operation for a specified period of time or of bonds or deposits to guarantee replacement in the event of failure is restricted to special cases where the recipient's engineer adequately justifies any such requirement in writing. Where this justification has been made, submission of a bond or deposit shall be permitted instead of a specified experience period. The period of time for which the bond or deposit is required shall not exceed the experience period specified;

6. Domestic products procurement law requirements in accordance with sections 34.350–34.359, RSMo;

7. Bonding on construction contracts exceeding fifty thousand dollars (\$50,000), the bid documents shall require each bidder to furnish a bid guarantee equivalent to five percent (5%) of the bid price. In addition, the bid documents must require the successful bidder to furnish performance and payment bonds, each of which shall be in an amount not less than one hundred percent (100%) of the contract price;

8. State wage determination in accordance with sections 290.210–290.340, RSMo and 8 CSR 30 Chapter 3;

9. Right of entry to the project site shall be provided for representatives of the department, the Environmental Improvement and Energy Resources Authority, and the Missouri State Auditor so they may have access to the work wherever it is in preparation or progress; and

10. The following statement: “The owner shall make payment to the contractor in accordance with section 34.057, RSMo.”

(M) Progress Payments to Contractors.

1. Recipients should make prompt progress payments to prime contractors and prime contractors should make prompt progress payments to subcontractors and suppliers for eligible construction, supplies, and equipment costs in accordance with section 34.057, RSMo.

2. Retention from progress payments. The amount the recipient retains shall be in accordance with section 34.057, RSMo.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 60—Safe Drinking Water Commission

Chapter 13—Grants and Loans

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-13.030 is amended.

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1885–1888). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department’s Financial Assistance Center staff provided testimony on the proposed amendment. One (1) comment was received and one (1) typographical error was identified by the department.

COMMENT #1: Department staff noticed a typographical error in a rule reference in subsection (4)(B). The reference was incorrectly printed as (2).

RESPONSE AND EXPLANATION OF CHANGE: The department is correcting the error.

COMMENT #2: Since proposal of the rule amendment, department staff determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment would modify the language of that requirement from “shall” to “will.” Because those terms may have different legal effect, the change may be misinterpreted.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word “shall” in order to clarify

the department’s obligation.

10 CSR 60-13.030 Environmental Review

(4) Construction Prior to Environmental Review.

(B) Based upon the review of the information required by section (5) of this rule, the director will issue a FNSI/EA so conditioned as to prohibit construction of the remainder of the project until a complete environmental review has been performed and a subsequent environmental determination has been issued.

(5) Information Required for Environmental Review.

(A) Recipients seeking a CE shall provide the director with sufficient documentation to demonstrate compliance with the criteria of subsection (2)(A). At a minimum, this shall consist of a—

1. Brief, complete description of the proposed project and its costs;

2. Statement indicating that the project is cost-effective and that the recipient is financially capable of constructing, operating, and maintaining the facilities; and

3. Plan map(s) of the proposed project showing—

A. The location of all construction areas;

B. The planning area boundaries; and

C. Any known environmentally sensitive areas.

(B) An EID shall be submitted by those recipients whose proposed projects do not meet the criteria for a CE and for which the director has made a preliminary determination that an EIS will not be required. The director will provide guidance on both the format and contents of the EID to potential recipients prior to initiation of facilities planning.

1. At a minimum, the contents of an EID shall include:

A. The purpose and need for the project;

B. Information describing the current environmental setting of the project and the future environmental setting without the project;

C. The alternatives to the project as proposed;

D. A description of the proposed project;

E. The proposed impact of the project and alternatives on the user rates;

F. The potential environmental impacts of the project as proposed including those which cannot be avoided;

G. The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity;

H. Any irreversible and irretrievable commitments of resources to the proposed project;

I. Proposed mitigation measures to minimize the environmental impacts of the project;

J. A description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and

K. Documentation of coordination with appropriate governmental agencies.

2. The recipient shall hold a public meeting or hearing on the proposed project and the EID, and provide the director with a complete record of the meeting or hearing. The meeting or hearing will be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Included with the meeting record will be a list of all attendees with addresses, any written testimony, and the recipient’s responses to the issues raised.

(C) The format of an EIS shall encourage sound analyses and clear presentation of alternatives, including the no-action alternative and the selected alternative and their environmental, economic, and social impacts. The following format shall be followed by the recipient unless the director determines there are compelling reasons to do otherwise:

1. A cover sheet identifying the recipient, the project(s), the program through which financial assistance is requested, and the date of publication;

2. An executive summary consisting of a five to fifteen (5-15) page summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary will include:

- A. A description of the existing problem;
 - B. A description of each alternative;
 - C. A listing of each alternative's potential environmental impacts, mitigative measures, and any areas of controversy; and
 - D. Any major conclusions;
3. The body of the EIS which shall contain the following information:

A. A complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives;

B. A balanced description of each alternative considered by the recipient. The descriptions will include the size and location of the facilities and pipelines, land requirements, operation and maintenance requirements, and construction schedules. The alternative of no action will be discussed and the recipient's preferred alternative(s) will be identified. Alternatives that were eliminated from detailed examination will be presented with the reasons for their elimination;

- C. A description of the alternatives available to the department including:
- (I) Providing financial assistance to the proposed project;
 - (II) Requiring that the proposed project be modified prior to providing financial assistance to reduce adverse environmental impacts or providing assistance with conditions requiring the implementation of mitigative measures; and
 - (III) Not providing financial assistance;

D. A description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance, or otherwise affect or have an interest in any of the alternatives;

E. A description of the affected environment and environmental consequences of each alternative including secondary and cumulative impacts. The affected environment on which the evaluation of each alternative will be based includes, as a partial listing, hydrology, geology, air quality, noise, biology, socioeconomics, land use, and cultural resources of the facilities planning area. The department will provide guidance, as necessary, to the recipient regarding the evaluation of the affected environment. The discussion will present the total impacts of each alternative in a manner that will facilitate comparison. The effects of the no-action alternative must be included to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives. A description of the existing environment will be included in the no-action section to provide background information. The detail in which the affected environment is described will be commensurate with the complexity of the situation and the significance of the anticipated impacts;

4. The draft EIS will be provided to all local, state, and federal agencies and public groups with an interest in the proposed project and be made available to the public for review. The final EIS will include all objections and suggestions made before and during the draft EIS review process along with the issues of public concern expressed by individuals or interested groups. The final EIS must include discussions of any such comments pertinent to the project or the EIS. All commenters will be identified. If a comment has led to a change in either the project or the EIS, the reason should be given. The department will always endeavor to resolve any conflicts that may have arisen, particularly among permitting agencies, prior to the issuance of the final EIS. In all cases, the comment period will be no less than forty-five (45) days;

5. Material incorporated into an EIS by reference will be organized into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested persons within the comment periods specified in paragraph (5)(C)4. and subparagraph (5)(C)7.C.;

6. When an EIS is prepared by contractors, either in the service

of the recipient or the department, the department will independently evaluate the EIS prior to issuance of the ROD and take responsibility for its scope and contents. The staff who undertake this evaluation will be identified under the list of preparers along with those of the contractor and any other parties responsible for the content of the EIS; and

7. The public participation required for an EIS is extensive but, depending upon the nature and scope of the proposed project, should be supplemented by the recipient. The following requirements represent the minimum allowable:

A. Upon making the determination that an EIS is required of a proposed project, the department will distribute a notice of intent to prepare an EIS;

B. As soon as possible after the notice of intent has been issued, the director will convene a meeting of the affected federal, state and local agencies, the recipient and other interested parties to determine the scope of the EIS. A notice of this scoping meeting may be incorporated into the notice of intent or prepared as in paragraph (5)(B)2. of this rule except that in no case will the notification period be less than forty-five (45) days. As part of the scoping meeting the director will, at a minimum—

(I) Determine the significance of issues and analyze in depth the scope of those significant issues in the EIS;

(II) Identify the preliminary range of alternatives to be considered;

(III) Identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(IV) Discuss the method for EIS preparation and the public participation strategy;

(V) Identify consultation requirement of other laws and regulations; and

(VI) Determine the relationship between the preparation of the EIS and the completion of the engineering report and any necessary arrangements for coordination of the preparation of both documents; and

C. Following the scoping process, the director will begin the identification and evaluation of all potentially viable alternatives to adequately address the range of issues developed in the scoping. A summary of this, including a list of the significant issues identified, will be provided to the recipient and other interested parties. Preparation of the EIS will be done at the discretion of the department: directly, by the staff; by consultants to the department; or by a consultant contracted by the recipient subject to approval by the department. In the latter two (2) cases, the consultant will be required to execute a disclosure statement prepared by the department signifying they have no financial or other conflicting interest in the outcome of the project. Both the draft EIS and final EIS will be distributed and made available for public review in a fashion consistent with the requirements of paragraph (5)(B)2. of this rule except that the advertisement and comment period for the public participation will be no less than forty-five (45) days. The department will publish in a newspaper of general circulation in the project area, a notice of availability of the EIS giving locations at which it will be available for public review at least forty-five (45) days prior to making any environmental determination.

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 60—Safe Drinking Water Commission

Chapter 14—Operator Certification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-14.010 Classification of Public Water Systems and System Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1888-1891). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Public Drinking Water Branch staff provided testimony on the proposed amendment. The department received one (1) written comment during the public comment period.

COMMENT: Mr. Robert E. Jones, President of the Oakwood Water Association, commented that the department should provide a classification level lower than a Drinking Water Distribution level 1 for any community water system that has a single source, no alternate connections, no treatment facility, and no metered connections that can be certified through online courses and tests.

RESPONSE: The department considered creating either an operator in training certification or a small system certification to allow very small systems to obtain a properly certified operator. These were rejected because it would create a new certificate that would not be substantially different from the existing DS-I certificate. The DS-I, which is the lowest level of DS certification, can be obtained by completing a department-approved class and passing the certification exam. The department would like to clarify that certain correspondence courses have been approved as pre-certification courses worth six (6) months of equivalent experience, but the department is not aware of an online course that is available for review and consideration that covers the broad range of topics necessary to meet the course requirements for a pre-certification course. The department has approved many shorter online courses for certified operators to consider when obtaining renewal training hours to maintain existing certificates. Certification exams are currently not available online due to security concerns, costs, and logistics necessary for Information Technology support associated with providing them electronically. No changes to the rule have been made as a result of this comment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 60—Safe Drinking Water Commission
Chapter 14—Operator Certification

ORDER OF RULEMAKING

By the authority vested in the Safe Drinking Water Commission under section 640.100, RSMo 2016, the commission amends a rule as follows:

10 CSR 60-14.020 Certification of Public Water System Operators is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1891-1892). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendment was held August 16, 2018, and the public comment period ended August 23, 2018. At the public hearing, the department's Public Drinking Water Branch staff provided testimony on the proposed amendment. The department received three (3) written comments during the public comment period.

COMMENT #1: Paul T. Priebe, KCMO Water Services, commented that the department is proposing to remove paragraphs (1)(K)1., 2., and 3. under and expressed concern that the information in the leading subsection of (1)(K) would be incomplete.

RESPONSE: The department agrees that the amendment does propose under subsection (1)(K) to remove paragraphs 1., 2., and 3., but offers clarification that a portion of paragraph 1. will be incorporated into the subsection (1)(K) to form a complete sentence. The final language is proposed to read, "Upon successful completion of the examination, the individual will have to obtain the necessary applicable treatment or distribution system experience within eighteen (18) months from the date of the examination." The language proposed to be removed causes no changes to current certification processes, but does reduce unnecessary text related to examinations that occurred in 2001. No changes to the rule have been made as a result of this comment.

COMMENT #2: Paul T. Priebe, KCMO Water Services, commented that the department is proposing to increase the burden on operators by changing when exam applications must be submitted from "submitted to" to "received by" and thereby lengthening the amount of time necessary for the operator to submit an application. He commented the change needs to be denied and stated that the department is still living in the 1970's and the time it takes to get results is also ridiculous.

RESPONSE: The department would like to clarify the proposed amendments. It appears Mr. Priebe has misinterpreted the proposed amendment change. The current rule language requires applications to be "received by" the department at least thirty (30) days prior to the examination date. The proposal is to replace "received by" with "submitted to." This change is in line with the department's current practice to use a post marked date to determine if an application met the thirty (30) day timeframe and allows the operator a few extra days in the timeline. The length of time it takes the department to issue exam results is not included in this rule. No changes to the rule have been made as a result of this comment.

COMMENT #3: Paul T. Priebe, KCMO Water Services, commented that the department should consider changes to 10 CSR 60-14.020(1)(D) Table 3. Equivalent Experience. He states that a thorough analysis should be carried out to identify what four (4) year degrees best fit the field of water treatment to receive two (2) years of equivalent experience toward certification.

RESPONSE: The department confirms that the proposed amendments do not include subsection (1)(D) Table 3. Equivalent Experience. The department appreciates the comment and agrees that should a change be considered in future amendments, it should be done in a thorough manner. The department believes the table currently includes a sufficient description of the type of four- (4-) year degrees that qualify for two (2) years of equivalent experience as "chemical/biological/environmental allied science or allied sciences or public health, or civil, mechanical, electrical or related engineering degree." No changes to the rule have been made as a result of this comment.

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“The welfare of the people shall be the supreme law.”



JOHN R. ASHCROFT
SECRETARY OF STATE

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Register Filing Deadlines	Register Publication Date	Code Publication Date	Code Effective Date
September 4, 2018 September 17, 2018	October 1, 2018 October 15, 2018	October 31, 2018 October 31, 2018	November 30, 2018 November 30, 2018
October 1, 2018 October 15, 2018	November 1, 2018 November 15, 2018	November 30, 2018 November 30, 2018	December 30, 2018 December 30, 2018
November 1, 2018 November 15, 2018	December 3, 2018 December 17, 2018	December 31, 2018 December 31, 2018	January 30, 2019 January 30, 2019
December 3, 2018 December 17, 2018	January 2, 2019 January 15, 2019	January 29, 2019 January 29, 2019	February 28, 2019 February 28, 2019
January 2, 2019 January 15, 2019	February 1, 2019 February 15, 2019	February 28, 2019 February 28, 2019	March 30, 2019 March 30, 2019
February 1, 2019 February 15, 2019	March 1, 2019 March 15, 2019	March 31, 2019 March 31, 2019	April 30, 2019 April 30, 2019

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at www.sos.mo.gov/adrules/pubsched.

HOW TO CITE RULES AND RSMO

RULES

The rules are codified in the *Code of State Regulations* in this system–

Title		Division	Chapter	Rule
3	CSR	10-	4	.115
Department	<i>Code of State Regulations</i>	Agency Division	General area regulated	Specific area regulated

and should be cited in this manner: 3 CSR 10-4.115.

Each department of state government is assigned a title. Each agency or division in the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraphs 1., subparagraphs A., parts (I), subparts (a), items I. and subitems a.

The rule is properly cited by using the full citation, for example, 3 CSR 10-4.115 NOT Rule 10-4.115.

Citations of RSMo are to the *Missouri Revised Statutes* as of the date indicated.

Code and Register on the Internet

The *Code of State Regulations* and *Missouri Register* are available on the Internet.

The *Code* address is www.sos.mo.gov/adrules/csr/csr

The *Register* address is www.sos.mo.gov/adrules/moreg/moreg

These websites contain rulemakings and regulations as they appear in the *Code* and *Registers*.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 6—Local Solid Waste Management

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director rescinds a rule as follows:

10 CSR 80-6.010 Local Solid Waste Management is rescinded.

A notice of proposed rulemaking containing the proposed recession was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1892–1893). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 7—Infectious Waste Management

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director amends a rule as follows:

10 CSR 80-7.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1893–1895). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 21, 2018, and the public comment period ended August 28, 2018. At the public hearing, department staff provided testimony on the proposed amendment. No comments were made at the public hearing. The department received written comments during the comment period from Ms. Selin Hoby with Stericycle Inc. and department staff.

COMMENT #1. Ms. Selin Hoby with Stericycle Inc. commented that the application of requirements contained in 10 CSR 80-5 to infectious waste processing facilities places burdens on these sorts of facilities that are not necessary to protect human health or the environment. Examples provided included dust and vector control. Accordingly, she requested numerous changes to 10 CSR 80-5.

RESPONSE: The department agrees with the comment that review of the requirements applied to the infectious waste industry is needed. But, the requirements highlighted by commenter are in 10 CSR 80-5 not 10 CSR 80-7. Chapter five is not open for amendment at this time, therefore the Department cannot change these requirements during this rulemaking. The department plans to convene an infectious waste workgroup to consider this and other comments that would require concurrent revision to both 10 CSR 80-5 and 10 CSR 80-7. No changes have been made to the rule as a result of this comment.

COMMENT #2. 10 CSR 80-7.010(1)(A)1. and (3)(C)7. Ms. Selin Hoby with Stericycle Inc.: “Transfer station becomes generator if

permitted as an infectious waste processing facility”; this requirement does not make any sense. It does not fit if you are sending waste for pass through at a processing facility. We recommend that this requirement be deleted. The generator should stay the generator and be liable for the waste. This is especially true if there was nonconforming waste.

RESPONSE: The department did not propose amendments to these provisions and believes the requested changes are outside the scope of the current rulemaking. Additionally, not all transfer stations are used as simple pass-through facilities. Some transfer stations combine materials (i.e., change the number of containers), thereby facilitating the need to document as a generator to track the waste. The department agrees that further review of 10 CSR 80-7 may be necessary to modernize or clarify regulations and plans to convene an infectious waste workgroup to consider this and other comments that require revision of 10 CSR 80-7. No changes have been made to the rule as a result of this comment.

COMMENT #3. 10 CSR 80-7.010(1)(A)3. Ms. Selin Hoby with Stericycle Inc.: This section sets out to identify wastes, however, never specifies what to do with them (if anything was intended) in terms of treatment. We recommend that this section be modified; the term “isolation wastes” is not commonly used and should be replaced with a regulated medical waste definition. We also recommend reviewing our letter for additional comments on trace chemotherapy waste and pharmaceuticals. Once established we recommend specifying treatment for the different waste streams to clarify what DNR desires be done with the waste.

RESPONSE: The department did not propose amendments to this provision and believes the requested changes are outside the scope of the current rulemaking. The list of wastes is intended to provide more detail to the statutory definition of infectious waste in section 260.200, RSMo, without specifying specific treatment for each waste stream. The department agrees that further review of 10 CSR 80-7 may be necessary to modernize definitions or clarify regulations and plans to convene an infectious waste workgroup to consider this and other comments that require revision of 10 CSR 80-7. No changes have been made to the rule as a result of this comment.

COMMENT #4: 10 CSR 80-7.010(3)(A)1.B. and (3)(B)6. Ms. Selin Hoby with Stericycle Inc., recommends that these requirements be removed or that there be an additional consideration for transportation/treatment facilities to help facilitate in these activities.

RESPONSE: The department did not propose amendments to these provisions and believes the requested changes are outside the scope of the current rulemaking. The department agrees that further review of 10 CSR 80-7 may be necessary to modernize or clarify regulations and plans to convene an infectious waste workgroup to consider this and other comments that require revision of 10 CSR 80-7. No changes have been made to the rule as a result of this comment.

COMMENT #5: 10 CSR 80-7.010(3)(C). Tracking Documents Section. Ms. Selin Hoby with Stericycle Inc.: There are several things in this section that are not in line with the DOT PHMSA regulations. These include what is required on the shipping documents - this is very specific and important from a DOT transporter compliance perspective. Additionally, much of the information requested in this section can be identified and tracked electronically through different tools. We would recommend that much of this section be re-evaluated and amended to be consistent and compliant with the DOT PHMSA regulations. We would also recommend that records be permitted to be tracked and maintained electronically.

RESPONSE: The current regulations require record keeping, but do not specify the manner in which records are kept. The department agrees that further review of 10 CSR 80-7 may be necessary to determine whether existing federal requirements already require the regulated community collect and track sufficient information for purposes of the department fulfilling its statutory obligations. No changes have

been made to the rule as a result of this comment.

COMMENT #6: 10 CSR 80-7.010(3)(C)3. Ms. Selin Hoby with Stericycle Inc.: We have approached the MODNR regarding the legality of this in previous years and discussions. Section 260.203.8 and 10 CSR 80-7.010(5)(D) are unconstitutional and invalid, because they unreasonably and unjustifiably burden interstate commerce. The State may not collect the 10% tax under either section 260.203.8 or 10 CSR 80-7.010(5)(D). This requirement should be deleted.

RESPONSE: In response to Stericycle's comments submitted during stakeholder engagement, this requirement was deleted as part of the proposed rulemaking for the Red Tape Reduction Initiative, as published in the proposed amendment in the *Missouri Register* on July, 16, 2018 (43 MoReg 1893-1895). No additional changes have been made to the rule as a result of this comment.

COMMENT #7: 10 CSR 80-7.010(5) Permitted Infectious Waste Processing Facility. Ms. Selin Hoby with Stericycle Inc.: This section is where most of the treatment facility requirements reside, however it references back to the solid waste rules. This cross referencing creates confusion and also, as stated above, several sections of the solid waste permitting of facilities are not applicable to RMW facilities. This is the section we would recommend be revised to have more detailed requirements and be moved from the solid waste section, but be more specific to the RMW facility needs. This could be an opportunity for the MODNR to engage with stakeholders to develop this section better and remove unnecessary requirements.

RESPONSE: Infectious waste processing facilities are required to comply with certain standards found in 10 CSR 80-5 by operation of language both in 10 CSR 80-7 and 10 CSR 80-5. Solely eliminating the cross references in 10 CSR 80-7 would increase, not decrease, confusion about the applicable requirements. The department did not open 10 CSR 80-5 for amendment and therefore accomplishing what is requested by the commenter is outside the scope of this rulemaking. The department agrees that further review of 10 CSR 80-7 and 10 CSR 80-5 may be necessary to modernize or clarify regulations and plans to convene an infectious waste workgroup to consider this and other comments that require revision of 10 CSR 80-7. No changes have been made to the rule as a result of this comment.

COMMENT #8: 10 CSR 80-7.010(5)(A)2.B. Ms. Selin Hoby with Stericycle Inc.: While this is not an uncommon requirement, it becomes a very burdensome task for commercial facilities who operate close to 24hrs/day 7 days per week. These facilities are closely monitored and have electronic parametric monitoring. Recommend that the testing be conducted at large or commercial operations once a month.

RESPONSE: Industry standard is that each bin have a test strip placed in the center of the waste to ensure the proper temperature, pressure, and residence times are achieved for effective treatment. This requirement is needed for protection of public health and safety. No changes have been made to the rule as a result of this comment.

COMMENT #9: 10 CSR 80-7.010(5)(A)2.C. Ms. Selin Hoby with Stericycle Inc.: This has traditionally been interpreted by inspectors to mean each autoclave bin for each cycle run. This is a very difficult process. There are not many scales that work in this environment and keep accurate weights. There is no other state in the country that requires this. The way these facilities are tested during the validation process is through overall weight captured during the loading of the bins providing a total per cycle, per shift, or per day. In some states it is simply a total volume limit per year that must be maintained. It is unclear, when autoclaving is a common and safe method used, why this requirement is here. For commercial operations this is a daunting task. Request that this be clarified to be weight data collected per some other unit of measure for large scale commercial facilities. We would also request that the data be made available electronically.

RESPONSE: Autoclaves have a maximum weight limit for effective

treatment. Without the weight data, it is impossible to ensure the autoclaves are not overcharged, thus not adequately treating all of the waste. No changes have been made to the rule as a result of this comment.

COMMENT #10: 10 CSR 80-7.010(5)(B). Ms. Selin Hoby with Stericycle Inc.: As stated before RMW transfer stations work very differently than MSW facilities. RMW transfer stations are not set up nor do they operate the way that a solid waste transfer station is set up. The regulations should be modified to reflect this difference. This requires facilities to have to adhere to requirements that would not normally be applicable to an RMW facility. We do not have waste operations that are open, all containers maintain closure at all times. We recommend that references to the solid waste sections be removed and we would welcome the opportunity to work with the department to discuss best regulatory guidance for transfer stations to ensure safety and security of the waste.

RESPONSE: The requested changes are outside the purview of the current amendment. The department agrees that further review of 10 CSR 80-5 and 10 CSR 80-7 may be necessary to modernize or clarify regulations and plans to convene an infectious waste workgroup to consider this and other comments that would require concurrent revision of both 10 CSR 80-5 and 10 CSR 80-7. No changes have been made to the rule as a result of this comment.

COMMENT #11: 10 CSR 80-7.010(5)(C)1. Ms. Selin Hoby with Stericycle Inc.: RMW processing areas are very different than solid waste type facilities. These regulations seem to still reflect similarities to solid waste requirements. RMW containers should be allowed to be stored in the processing area while they await treatment.

Containerized waste is stacked and moved in line for treatment. This helps to facilitate ease of processing, helps to clear out route trucks and trailers so that they can be prepared for the next pick up day, and in some cases waste comes in requiring the waste to be moved up in line (spill situation, putrescent waste delivered that must be immediately processed) which may require the waste to remain in the processing area for longer than twenty-four (24) hours. We would recommend that this be changed to: "Waste shall be continuously processed. Waste must be maintained in their packing and properly stored in the area for up to seven (7) days. Any waste that becomes putrescent must be processed immediately."

RESPONSE: In response to Stericycle's comments submitted during stakeholder engagement, the proposed rulemaking added new subparagraph 10 CSR 80-7.010(5)(C)2.B. to allow up to seventy-two (72) hours (from Friday afternoon until Monday morning) for storage; when processing ceases, all untreated waste must be stored in a refrigerated storage area separate from the processing area, in original containers (unless containers were damaged/breached). This change was included as part of the proposed rulemaking for the Red Tape Reduction Initiative, as published in the proposed amendment in the *Missouri Register* on July, 16, 2018 (43 MoReg 1893-1895). No additional changes have been made to the rule as a result of this comment.

COMMENT #12: 10 CSR 80-7.010(5)(C)2.C. Ms. Selin Hoby with Stericycle Inc.: Floors impervious to liquids and curbing are requirements of hazardous waste facilities so as to prevent hazardous chemical waste from migrating from the facility, or from getting to the sewer system. Though the department should recommend that precautions be taken to prevent infectious waste spills, an infectious waste spill is less likely to harm human health or the environment than a hazardous waste spill. Requiring a floor impervious to liquids and requiring curbing are overkill and expensive to install and maintain. Recommend that facilities have a spill plan for responding to an infectious waste spill, and that plan should be immediately enacted upon discovery of the spill.

RESPONSE: In response to Stericycle's comments submitted during stakeholder engagement, this requirement was modified as part of the

proposed rulemaking for the Red Tape Reduction Initiative, as published in the proposed amendment in the *Missouri Register* on July, 16, 2018 (43 MoReg 1893–1895). No changes have been made to the rule as a result of this comment.

COMMENT #13: 10 CSR 80-7.010(5)(D) and (5)(D)3.A. Ms. Selin Hoby with Stericycle Inc.: Currently pay two dollars (\$2) per ton of waste accepted. Also have to pay a fee of ten percent (10%) of the total dollar amount charged by the facility for the management of waste for those customers outside of a three hundred (300) mile radius. We are also then required to do a very time consuming quarterly fee. This issue has been debated between MODNR and Stericycle for several years. Inconsistency in the way it has been interpreted has lead to auditing and severe penalties. As noted previously, 10 CSR 80-7.010(5)(D) are unconstitutional under the dormant Commerce Clause, because the provisions: (i) facially discriminate against interstate commerce and other states; and (ii) their burdens on interstate commerce outweigh any legitimate purposes the State may articulate. This requirement should be removed. The subsequent requirement for the quarterly report should be removed or amended.

RESPONSE: In response to Stericycle’s comments submitted during stakeholder engagement, the requirement for the distance surcharge under 10 CSR 80-7.010(5)(D)2. was deleted as part of the proposed rulemaking for the Red Tape Reduction Initiative, as published in the proposed amendment in the *Missouri Register* on July, 16, 2018 (43 MoReg 1893–1895). No changes have been made to the rule as a result of this comment.

COMMENT #14: A Solid Waste Management Program staff member requested the removal of subparagraph (5)(A)1.E. because it duplicates language in (5)(A)1.F. and to make the language consistent with other sections of this rule.

RESPONSE: Changes were made to the text of the proposed rulemaking in response to this comment and section (5) is reprinted below.

COMMENT #15: A staff member requested the addition of the word “waste” in (5)(A)2.G. to make the language read “processing of the infectious waste, and the plan”.

RESPONSE: Changes were made to the text of the proposed rulemaking in response to this comment and section (5) is reprinted below.

10 CSR 80-7.010 Infectious Waste Management

(5) Permitted Infectious Waste Processing Facility. This section sets forth requirements for solid waste processing facilities permitted for the treatment or other processing of infectious waste. A report shall be submitted to the department containing plans, as defined in 10 CSR 80-2.010, addressing the requirements of sections 260.200-260.345, RSMo and 10 CSR 80.

(A) Treatment Facility. An infectious waste processing facility permitted for the treatment of infectious waste means a facility that has received a solid waste processing facility permit as provided in sections 260.200-260.345, RSMo and 10 CSR 80-2.020, 10 CSR 80-5.010, and this rule. The solid waste processing facility construction and operating permit shall specifically allow for the treatment of infectious waste as provided by this rule. Two (2) treatment technologies are approved for the treatment of infectious waste by permitted facilities—incineration and steam sterilization. Chemical sterilization and other types of treatment may be approved by the department on a case-by-case basis.

1. Permitted infectious waste incinerators shall be multi-chambered and be designed to provide complete combustion for the type of waste introduced into the incinerator. The incinerator shall achieve a minimum temperature of one thousand eight hundred degrees Fahrenheit (1800 °F) in the secondary chamber with a minimum retention time of one-half (1/2) second in the secondary chamber.

Automatic controls that lock out the load system if the secondary chamber is not up to the minimum temperature and automatic, continuous temperature recording charts for the secondary chamber shall be equipped on the incinerator and utilized during any infectious waste treatment process.

A. The operator shall visually inspect each batch of ash from batch-type ash removal systems prior to disposal. The operator shall visually inspect the ash from continuous ash removal systems a minimum of once per hour during operation.

B. Any partially combusted organic materials observed will be noted in the facility log. The facility manager shall be notified and corrective action taken. The corrective action and new ash observations shall be noted in the facility log.

C. Amount of waste treated each hour shall be recorded in the facility log by weight.

D. The plans shall include a statement quantifying the maximum amount, by weight, of infectious waste to be accepted each month.

E. The plans shall contain procedures for the handling of spills during unloading, storage, and processing of the infectious waste, and the plan will be implemented immediately upon discovery of any spill.

F. A solid waste technician trained in the handling of infectious waste and in the operation of the incinerator shall be on-site during any treatment process. Evidence of training shall be maintained on-site. The plans shall contain an outline of the training, including the name and qualifications of the person(s) providing the training.

2. Steam sterilization by permitted facilities using autoclaves is an acceptable means of treating infectious waste when operated at sufficient temperatures for adequate periods of time to kill infectious agents present in the waste. Automatic continuous time and temperature recording charts shall be utilized on each unit during operation. Units shall be operated according to manufacturer’s recommendations.

A. During initial operational testing, four (4) waste charges representing the maximum amount of waste to be processed in any charge shall be treated. Each charge shall contain all types of waste that are to be treated at the facility and shall be packaged as the waste will be packaged for treatment during normal operations. For each of the four (4) waste charges, three (3) biological indicators approved by the department (such as three (3) vials of *Bacillus stearothermophilus*), shall be placed inside separate containers of simulated waste (that is, sharps containers, autoclaveable bags), distributed throughout the waste charge prior to treatment, recovered after treatment, cultured, and analyzed. Any positive reading constitutes a failure of the treatment process and shall require corrective action and retesting in accordance with this subparagraph.

B. Each sterilizer shall be tested each week by placing one (1) department-approved biological indicator inside a waste container prior to treatment. The biological indicator shall be recovered, cultured, and analyzed. A positive indicator constitutes a failure of the treatment process. The sterilizer shall not be used to treat infectious waste until corrective action has been taken and results verified. Upon completion of corrective action, the sterilizer shall be retested in accordance with subparagraph (5)(A)2.A. of this rule. Results of biological indicator tests and any corrective action shall be recorded in the facility log.

C. Amounts of waste treated each load shall be recorded in the facility log by weight.

D. Sharps that were treated by steam sterilization shall be packaged in rigid, leak-resistant and puncture-resistant containers, and sealed prior to disposal.

E. Sharps that have been rendered innocuous by an approved method and that have been shredded so as not to pose a puncture hazard are not required to be transported, packaged, or stored in rigid, semi-rigid, leak-resistant or puncture-resistant containers. Such sharps may be disposed of in a sanitary landfill as a solid waste.

F. The plans shall include a statement quantifying the maximum amount, by weight, of infectious waste to be accepted each month.

G. The plans shall contain procedures for the handling of spills during unloading, storage, and processing of the infectious waste, and the plan will be implemented immediately upon discovery of any spill.

H. A solid waste technician trained in the handling of infectious waste and in the operation of the steam sterilizer shall be on-site during any treatment process. Evidence of training shall be maintained on-site. The plans shall contain an outline of the training, including the name and qualifications of the person(s) providing the training.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 8—Scrap Tires**

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director amends a rule as follows:

10 CSR 80-8.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1895–1896). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 21, 2018, and the public comment period ended August 28, 2018. At the public hearing, department staff provided testimony on the proposed amendment. No comments were made at the public hearing. One (1) comment was received from a staff member and is detailed below.

COMMENT #1. A staff member requested the addition of the word “section” in (5)(B) to make the language read “pursuant to section 260.270.3(5), RSMo”.

RESPONSE AND EXPLANATION OF CHANGE: Changes were made to the text of the proposed rulemaking in response to this comment and section (5) is reprinted below.

10 CSR 80-8.020 Scrap Tire Collection Centers and End-User Registration

(5) Record Keeping Requirements.

(A) The owner/operator of a scrap tire collection center shall maintain records, on forms provided by or approved by the department for at least three (3) years. The period of record retention extends upon the written request of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity. The records shall be made available for inspection by the department or its designated representative upon request. Scrap tire collection centers shall also maintain records of vector control activities.

(B) The owner/operator of a scrap tire end-use facility shall maintain records pursuant to section 260.270.3(5), RSMo.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 8—Scrap Tires**

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director amends a rule as follows:

10 CSR 80-8.030 Scrap Tire Hauler Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1896–1897). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 8—Scrap Tires**

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director amends a rule as follows:

10 CSR 80-8.050 Scrap Tire Processing Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1897–1905). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 9—Solid Waste Management Fund**

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director amends a rule as follows:

10 CSR 80-9.030 Scrap Tire Grants is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1054–1055). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 80—Solid Waste Management
Chapter 9—Solid Waste Management Fund**

ORDER OF RULEMAKING

By the authority vested in the Director of the Department of Natural Resources under section 260.225, RSMo 2016, the director amends a rule as follows:

10 CSR 80-9.035 Scrap Tire Cleanup Contracts is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 1055-1056). No changes have been made to the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-2.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1905-1906). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on Aug. 21, 2018. At the public hearing, the department's Division of State Parks staff explained the proposed amendment. A member of staff identified minor edits to be made.

10 CSR 90-2.010 Definitions

(1) General Definitions.

(L) Persons with a disability. Individuals with a disability, as defined in the Americans with Disabilities Act, 42 USCA Section 12102.

(O) Vehicles (Non-Licensed).

1. All terrain vehicle (ATV) is a motorized vehicle having a maximum width of 50 inches and a maximum weight of 600 pounds designed to be operated off-road, with handlebar steering and a seat that is straddled by the operator. An ATV may be equipped with two (2), three (3), or more tires. This definition includes motorcycles designed for off-road operation.

2. Electrically-assisted pedal-powered vehicle is a self-propelled vehicle containing an electric motor designed to assist or supplement pedaling, which does not exceed a speed of twenty (20) miles per hour.

3. Other Power-Driven Mobility Device (OPDMD) is any mobility device powered by batteries, fuel, or other engines - whether or not designed primarily for use by individuals with mobility disabilities - that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electric personal assisted mobile devices, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair, off-road vehicle, ATV, or motor vehicle.

4. Pedal-powered vehicle. A vehicle consisting of a tubular metal frame mounted on one (1), two (2), or three (3) wire-spoked wheels equipped with handlebars and a saddlelike seat, and propelled by foot pedals, more commonly known as a unicycle, bicycle, or tricycle.

5. Vehicle is any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used

exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by persons with disabilities.

6. Wheelchair is a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor or outdoor locomotion.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-2.020 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1906-1908). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on Aug. 21, 2018. At the public hearing, the department's Division of State Parks staff explained the proposed amendment.

COMMENT: Since proposal of the rule amendment, the department determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment to paragraph (11)(B)1., which requires the department to determine an animal dangerous or vicious in the event of a non-accidental bite/attack, would modify the language of that requirement from "shall" to "will." Because those terms may have different legal effect, the change may be misinterpreted. The director adopts changes to the amendment to restore mandatory language.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

10 CSR 90-2.020 Park Management

(11) Pets and Animals at Large.

(B) Park staff, and specifically when possible park rangers, shall investigate all animal bites or attacks and recommend a classification of the incident and a determination concerning each reported animal bite or attack.

1. The investigating staff member shall determine if the bite/attack was accidental or non-accidental. If non-accidental, the animal shall be determined to be dangerous or vicious. No animal is considered dangerous or vicious if the approach, injury, or damage was sustained by a person who was tormenting, abusing, or assaulting the animal; or was committing or attempting to commit a crime or intentional tort which would warrant immediate defense of person or property.

2. All animals involved in bites or attacks are subject to immediate impoundment by the investigating park staff. Park staff or peace officers are authorized to use lethal force to apprehend animals involved in a bite or attack.

3. Owners of animals are subject to fines, penalties, and any necessary capture, disease tests, impound, quarantine fees, and medical bills incurred by park staff for the animal's removal. Owners are required to report bites or attacks to park staff.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-2.030 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1908–1912). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on Aug. 21, 2018. At the public hearing, the department's Division of State Parks staff explained the proposed amendment.

COMMENT: Since proposal of the rule amendment, the department determined that the proposed amendment may be interpreted to suggest that a previously mandatory department obligation had become discretionary. The proposed amendment to section (2), which requires the department to post methods of collecting camping fees, would modify the language of that requirement from "shall" to "will." Because those terms may have different legal effect, the change may be misinterpreted. The director adopts changes to the amendment to restore mandatory language.

RESPONSE AND EXPLANATION OF CHANGE: The department is revising the language to retain the word "shall" in order to clarify the department's obligation.

10 CSR 90-2.030 Camping and Recreational Activities

(2) Camping Fee. Methods of collecting the camping fee (site to site, office, fee booth, etc.) for each campground shall be posted as public information. Camping permits, once issued and paid for, are non-transferable.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-2.040 Park Property is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1912–1913). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on Aug. 21, 2018. At the public hearing, the department's Division of State Parks staff explained the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-2.050 Organized Group Camps is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1913–1914). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on Aug. 21, 2018. At the public hearing, the department's Division of State Parks staff explained the proposed amendment. No comments were received.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 90—State Parks
Chapter 2—State Parks Administration

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Natural Resources under section 253.035, RSMo 2016, the director amends a rule as follows:

10 CSR 90-2.070 Fencing on Park-Owned Property is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1914–1915). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held on Aug. 21, 2018. At the public hearing, the department's Division of State Parks staff explained the proposed amendment. No comments were received.

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Driver License Bureau Rules

ORDER OF RULEMAKING

By the authority vested in the Director of Revenue under section 302.170, RSMo Supp. 2018, the director amends a rule as follows:

12 CSR 10-24.448 Documents Required for Issuance of a Driver License, Nondriver License, or Instruction Permit is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 4, 2018 (43 MoReg 2541–2543). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective on **March 4, 2019**.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 24—Driver License Bureau Rules**

ORDER OF RULEMAKING

By the authority vested in the Director of Revenue under section 302.174, RSMo 2016, the director rescinds a rule as follows:

12 CSR 10-24.470 Procedure for Obtaining a “J88” Notation on a Drivers License for Deafness or Hard of Hearing **is rescinded**.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2645). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 10—Office of the Director
Chapter 15—Abortions**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under section 192.006, RSMo, 2016 and House Bill 2010, 99th General Assembly, Second Regular Session, the department adopts a rule as follows:

19 CSR 10-15.060 Prohibition on Expenditure of Funds **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on August 15, 2018 (43 MoReg 2465–2468). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Department of Health and Senior Services received one (1) letter with four (4) comments.

COMMENT #1: Mary Kogut with Planned Parenthood of the St. Louis Region and Brandon Hill with Planned Parenthood Great Plains commented that the definitions of affiliate and associate would harm women’s health. These commenters also provide recommended language for the definitions of associate and affiliate.

RESPONSE: The department is committed to being the leader in promoting, protecting, and partnering for health, including women’s health. The department in conjunction with the Department of Social Services continually monitors access to health care, including women’s health care. The department does not agree that this regulation will harm women’s health as there are many health care providers that already provide and will continue to provide women’s health care even after this regulation becomes effective. No changes were made as a result of this comment.

COMMENT #2: Mary Kogut with Planned Parenthood of the St. Louis Region and Brandon Hill with Planned Parenthood Great Plains commented the rule unconstitutionally withholds public funds. These commenters also provide recommended language for the definitions of associate and affiliate.

RESPONSE: After careful review, the department disagrees that this rule is in violation of the *United States Constitution*. No changes were made as a result of this comment.

COMMENT #3: Mary Kogut with Planned Parenthood of the St. Louis Region and Brandon Hill with Planned Parenthood Great Plains commented the definitions of affiliate and associate are impermissibly vague under the *Missouri Constitution*. These commenters also provide recommended language for the definitions of associate and affiliate.

RESPONSE: After careful review, the department disagrees that the definitions of affiliate and associate are impermissibly vague. The definitions are permissible under the *Missouri Constitution*. No changes were made as a result of this comment.

COMMENT #4: Mary Kogut with Planned Parenthood of the St. Louis Region and Brandon Hill with Planned Parenthood Great Plains commented that the department does not have authority to promulgate the rule because House Bill 2010 violates the single subject rule and impermissibly legislates through the budget process. These commenters also provide recommended language for the definitions of associate and affiliate.

RESPONSE: The department has statutory authority to adopt, amend, and appeal rules necessary to carry out the duties of the programs that it administers. Further, the department disagrees that House Bill 2010 violates the single subject rule or impermissibly legislates through the budget process. No changes were made as a result of this comment.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2245—Real Estate Appraisers
Chapter 1—Organization and Description of Commission**

ORDER OF RULEMAKING

By the authority vested in the Real Estate Appraisers Commission under section 339.544, RSMo 2016, the commission amends a rule as follows:

20 CSR 2245-1.010 General Organization **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2664). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION**

**Division 2245—Real Estate Appraisers
Chapter 3—Applications for Certification and Licensure**

ORDER OF RULEMAKING

By the authority vested in the Real Estate Appraisers Commission under section 339.544, RSMo 2016, the commission amends a rule as follows:

20 CSR 2245-3.005 Trainee Real Estate Appraiser Registration is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2664–2665). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION****Division 2245—Real Estate Appraisers
Chapter 3—Applications for Certification and Licensure****ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under section 339.544, RSMo 2016, the commission amends a rule as follows:

20 CSR 2245-3.010 Applications for Certification and Licensure is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2665). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION****Division 2245—Real Estate Appraisers
Chapter 6—Educational Requirements****ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under section 339.544, RSMo 2016, the commission amends a rule as follows:

20 CSR 2245-6.040 Case Study Courses is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2665–2666). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION****Division 2245—Real Estate Appraisers
Chapter 8—Continuing Education****ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under section 339.544, RSMo 2016, the commission amends a rule as follows:

20 CSR 2245-8.010 Requirements is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2666). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION****Division 2245—Real Estate Appraisers
Chapter 8—Continuing Education****ORDER OF RULEMAKING**

By the authority vested in the Real Estate Appraisers Commission under section 339.544, RSMo 2016, the commission amends a rule as follows:

20 CSR 2245-8.030 Instructor Approval is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 17, 2018 (43 MoReg 2666). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program**

**NOTIFICATION OF REVIEW:
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the CON application listed below. A decision is tentatively scheduled for January 22, 2019. This application is available for public inspection at the address shown below.

Date Filed

Project Number: Project Name
City (County)
Cost, Description

12/10/2018

#5660 HT: Phelps County Regional Medical Center
Rolla (Phelps County)
\$1,457,451, Replace MRI

Any person wishing to request a public hearing for the purpose of commenting on this application must submit a written request to this effect, which must be received by December 23, 2018. All written requests and comments should be sent to—

Chairman
Missouri Health Facilities Review Committee
c/o Certificate of Need Program
3418 Knipp Drive, Suite F
PO Box 570
Jefferson City, MO 65102
For additional information contact Karla Houchins at karla.houchins@health.mo.gov.

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2016, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to adrules.dissolutions@sos.mo.gov.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST SCHWARZ FAMILY FARM, LLC

On November 16, 2018, Schwarz Family Farm, LLC, a Missouri limited liability company, Charter Number LC0659530, filed its Notice of Winding Up with the Missouri Secretary of State, effective as of the filing date.

All persons or organizations having claims against Schwarz Family Farm, LLC are required to present them immediately in writing to: Kirkland Woods & Martinsen LLP, Attn: Robert T. Steinkamp, 132 Westwoods Drive, Liberty, Missouri 64068.

Each claim must include: (1) claimant's name and current address; (2) the amount claimed; (3) the date the claim was incurred; and (4) a clear and concise statement of the facts supporting the claim.

NOTE: CLAIMS AGAINST **SCHWARZ FAMILY FARM, LLC**, WILL BE BARRED UNLESS A PROCEEDING TO ENFORCE THE CLAIM IS COMMENCED WITHIN THREE (3) YEARS AFTER THE PUBLICATION OF THIS NOTICE.

NOTICE OF DISSOLUTION OF CORPORATION

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST MIDWESTERN REAL ESTATE HOLDINGS III, INC., a Missouri corporation.

On November 13, 2018, Midwestern Real Estate Holdings III, Inc., a Missouri corporation, filed its Articles of Dissolution with the Missouri Secretary of State. Dissolution was effective on the date of filing of the Articles of Dissolution. Said corporation requests that all persons and organizations with claims against it present them immediately by letter to: Steven P. Kuenzel, Esq., at 200 West Main Street, 2nd Floor, P. O. Box 228, Washington, MO 63090.

All claims must include: the name and address of the claimant; the amount claimed; the basis for the claim; the date(s) on which the event(s) on which the claim is based occurred; and a brief description of the facts surrounding the claim.

NOTICE: Because of the dissolution of Midwestern Real Estate Holdings III, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of this notice.

**NOTICE OF WINDING UP
OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS
AGAINST GREEN CROW, LLC**

Notice is hereby given that Green Crow, LLC, a Missouri limited liability company (the "Company"), is being liquidated and dissolved pursuant to the Missouri Limited Liability Company Act (the "Act"). This notice is being given pursuant to Section 347.141 of the Act.

All persons with claims against the Company should submit them in writing in accordance with this notice to: Vatterott Harris P.C., Attn: Paul J. Harris, 2458 Old Dorsett Road, Suite 230, Maryland Heights, MO 63043.

Claims against the Company must include: (1) the claimant's name, address and phone number, (2) the amount claimed, (3) the date the claim arose, (4) the basis of the claim, and (5) documentation supporting the claim.

A claim against the Company will be barred unless a proceeding to enforce the claim is enforced within three years after the publication of this notice.

**NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL
CREDITORS OF AND CLAIMANTS AGAINST CPR TRANSITION MO, LLC
(f/k/a CARDIO PARTNER RESOURCES, LLC)**

CPR Transition MO, LLC (f/k/a Cardio Partner Resources, LLC), a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on November 19, 2018. Any and all claims against CPR Transition MO, LLC may be sent to Affinity Law Group, LLC, 1610 Des Peres Road, Suite 100, St. Louis, MO 63131. Each claim must include: (i) the name, address, and telephone number of the claimant; (ii) amount of the claim; (iii) basis for the claim; (iv) documentation of the claim. A claim against CPR Transition MO, LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

**NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL
CREDITORS AND CLAIMANTS AGAINST INTEGRATED CONSTRUCTION
SERVICES, L.L.C.**

Integrated Construction Services, L.L.C., a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on December 3rd, 2018. Any and all claims against Integrated Construction Services, L.L.C. may be sent to Teresa K. Soper, 1500 Ridgeview Drive, Liberty, Missouri 64068. Each claim must include: (i) the name, address, and telephone number of the claimant; (ii) amount of the claim; (iii) the basis for the claim; and (iv) documentation of the claim. A claim against Integrated Construction Services, L.L.C. will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

**NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL
CREDITORS OF AND CLAIMANTS AGAINST BROADRIVER TRF I (MO), LLC**

BroadRiver TRF I (MO), LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on November 28, 2018. Any and all claims against BroadRiver TRF I (MO), LLC may be sent to Affinity Law Group, LLC, 1610 Des Peres Road, Suite 100, St. Louis, MO 63131. Each claim must include: (i) the name, address, and telephone number of the claimant; (ii) amount of the claim; (iii) basis for the claim; (iv) documentation of the claim. A claim against BroadRiver TRF I (MO), LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

Notice of Dissolution to All Creditors of and Claimants Against Callaway Propane, L.L.C.

On November 30, 2018, Callaway Propane, L.L.C., a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for a Limited Liability Company with the Secretary of State of Missouri.

The Company requests that any and all claims against the Company be presented by letter to the Company in care of MFA Oil Company, Attn: Don Smith, One Ray Young Drive, Columbia, Missouri 65201. Each claim against the Company must include the following information: the name, the address and telephone number of the claimant; the amount of the claim; the date on which the claim arose; a brief description of the nature of or the basis for the claim; and any documentation related to the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
PRAIRIE CHEESE & WHEY INGREDIENTS, LLC**

On November 19, 2018, Prairie Cheese & Whey Ingredients, LLC, a Missouri limited liability company ("Company"), filed its Notice of Winding Up with the Missouri Secretary of State, effective on the filing date.

All persons and organizations must submit to Company, c/o Frank C. Carnahan, Esq., Carnahan, Evans, Cantwell & Brown, P.C., 2805 S. Ingram Mill Road, Springfield, Missouri 65804, a written summary of any claims against the Company, including: 1) claimant's name, address and telephone number; 2) amount of claim; 3) date(s) claim accrued (or will accrue); 4) brief description of the nature of the debt or the basis for the claim; and 5) if the claim is secured, and if so, the collateral used as security.

Because of the dissolution, any claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the last of filing or publication of this Notice.

**NOTICE OF DISSOLUTION
OF
JESSE JAMES AUTO CENTER, INC.**

JESSE JAMES AUTO CENTER, INC., a Missouri corporation (the "Corporation"), has filed Articles of Dissolution with the Missouri Secretary of State with an effective dissolution date of May 17, 2018. Persons with claims against the Corporation must present such claim(s) to: Jesse James, Auto Company, Inc., c/o Phillip J. Spady, 10250 Regency Circle, Suite 300, Omaha, Nebraska 68114, within two (2) years after the date of this notice. Failure to present any claim(s) within this time period will result in such claim(s) being forever barred pursuant to Mo. Rev. Stat. §351.482. Claims against the Corporation must include the following information: (i) claimant's name, address and telephone number during business hours; (ii) any facts which may support the claim; and (iii) any amounts allegedly owed by the Corporation under the claim. Claims not including this information will not be reviewed.

**NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS AGAINST
JENNINGS STORAGE SOLUTIONS, LLC**

On November 13th, 2018 Jennings Storage Solutions, LLC a Missouri limited liability company (hereinafter the "Company") filed its Notice of Winding for a limited Liability Company with the Missouri Secretary of State. Any Claims against the Company may be Sent to: TRG Consulting, LLC 3159 Fee Fee Road Ste. 221 Bridgeton MO, 63044.

Each Claim must include:

1. Name
2. Address and Phone Number
3. Amount
4. Date on which Claim Arose
5. Basis for the Claim
6. Supporting documentation of the Claim

All Claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

Beau D. Reinberg
3159 Fee Fee Road Ste. 221
Bridgeton MO 63044
Office: 314-736-1076
Cell: 573-673-1191 (Preferred)
beaureinberg@dss-bcm.com

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—42 (2017) and 43 (2018). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 10	OFFICE OF ADMINISTRATION State Officials' Salary Compensation Schedule				42 MoReg 1849 43 MoReg 3648
1 CSR 10-3.010	Commissioner of Administration		43 MoReg 3205		
1 CSR 10-4.010	Commissioner of Administration		43 MoReg 3208R		
1 CSR 10-5.010	Commissioner of Administration		43 MoReg 3208		
1 CSR 10-7.010	Commissioner of Administration		43 MoReg 3209		
1 CSR 10-8.010	Commissioner of Administration		43 MoReg 3210		
1 CSR 10-9.010	Commissioner of Administration		43 MoReg 3210R		
1 CSR 10-11.010	Commissioner of Administration		43 MoReg 3211		
1 CSR 10-11.020	Commissioner of Administration		43 MoReg 3214R		
1 CSR 10-11.030	Commissioner of Administration		43 MoReg 3214R		
1 CSR 10-13.010	Commissioner of Administration		43 MoReg 3214R		
1 CSR 10-16.010	Commissioner of Administration		43 MoReg 3215		
1 CSR 10-18.010	Commissioner of Administration		43 MoReg 2975R		
1 CSR 20-1.010	Personnel Advisory Board and Division of Personnel	43 MoReg 2735	43 MoReg 2782		
1 CSR 20-1.020	Personnel Advisory Board and Division of Personnel	43 MoReg 2736	43 MoReg 2783		
1 CSR 20-1.030	Personnel Advisory Board and Division of Personnel		43 MoReg 2787R		
1 CSR 20-1.040	Personnel Advisory Board and Division of Personnel	43 MoReg 2740	43 MoReg 2787		
1 CSR 20-1.045	Personnel Advisory Board and Division of Personnel	43 MoReg 2741	43 MoReg 2788		
1 CSR 20-1.050	Personnel Advisory Board and Division of Personnel		43 MoReg 2790R		
1 CSR 20-2.010	Personnel Advisory Board and Division of Personnel	43 MoReg 2742	43 MoReg 2790		
1 CSR 20-2.015	Personnel Advisory Board and Division of Personnel	43 MoReg 2744	43 MoReg 2791		
1 CSR 20-2.020	Personnel Advisory Board and Division of Personnel	43 MoReg 2747	43 MoReg 2795		
1 CSR 20-3.010	Personnel Advisory Board and Division of Personnel	43 MoReg 2749	43 MoReg 2797		
1 CSR 20-3.020	Personnel Advisory Board and Division of Personnel	43 MoReg 2753	43 MoReg 2800		
1 CSR 20-3.030	Personnel Advisory Board and Division of Personnel	43 MoReg 2754	43 MoReg 2802		
1 CSR 20-3.040	Personnel Advisory Board and Division of Personnel	43 MoReg 2757	43 MoReg 2805		
1 CSR 20-3.050	Personnel Advisory Board and Division of Personnel	43 MoReg 2758R	43 MoReg 2806R		
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel	43 MoReg 2759	43 MoReg 2806		
1 CSR 20-3.080	Personnel Advisory Board and Division of Personnel	43 MoReg 2763	43 MoReg 2810		
1 CSR 20-4.010	Personnel Advisory Board and Division of Personnel	43 MoReg 2764R	43 MoReg 2811R		
1 CSR 20-4.020	Personnel Advisory Board and Division of Personnel	43 MoReg 2764	43 MoReg 2811		
1 CSR 30-2.020	Division of Facilities Management, Design and Construction		43 MoReg 2813R		
1 CSR 30-2.030	Division of Facilities Management, Design and Construction		43 MoReg 2813R		
1 CSR 30-2.040	Division of Facilities Management, Design and Construction		43 MoReg 2813R		
1 CSR 30-2.050	Division of Facilities Management, Design and Construction		43 MoReg 2814R		
1 CSR 30-3.010	Division of Facilities Management, Design and Construction		43 MoReg 2814R		
1 CSR 30-3.020	Division of Facilities Management, Design and Construction		43 MoReg 2814R		
1 CSR 30-3.025	Division of Facilities Management, Design and Construction		This Issue		
1 CSR 30-3.030	Division of Facilities Management, Design and Construction		43 MoReg 3215		
1 CSR 30-3.035	Division of Facilities Management, Design and Construction		43 MoReg 2814R		
1 CSR 30-3.040	Division of Facilities Management, Design and Construction		43 MoReg 3218		
1 CSR 30-3.050	Division of Facilities Management, Design and Construction		43 MoReg 3221		
1 CSR 30-3.060	Division of Facilities Management, Design and Construction		This IssueR		
1 CSR 30-4.010	Division of Facilities Management, Design and Construction		43 MoReg 2815R		
1 CSR 30-4.020	Division of Facilities Management, Design and Construction		This Issue		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 30-4.030	Division of Facilities Management, Design and Construction		This IssueR		
1 CSR 30-4.040	Division of Facilities Management, Design and Construction		This IssueR		
1 CSR 35-1.050	Division of Facilities Management		43 MoReg 3222		
1 CSR 35-2.010	Division of Facilities Management		This IssueR		
1 CSR 35-2.020	Division of Facilities Management		This IssueR		
1 CSR 35-2.030	Division of Facilities Management		This Issue		
1 CSR 35-2.040	Division of Facilities Management		This IssueR		
1 CSR 35-2.050	Division of Facilities Management		This IssueR		
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1 CSR 40-1.090	Purchasing and Materials Management		43 MoReg 3237R		
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2 CSR 20-3.010	Administrative Services (<i>Changed to 2 CSR 110-4.010</i>)		43 MoReg 1417	43 MoReg 3116	
2 CSR 20-3.020	Administrative Services (<i>Changed to 2 CSR 110-4.020</i>)		43 MoReg 1418	43 MoReg 3117	
2 CSR 20-3.030	Administrative Services (<i>Changed to 2 CSR 110-4.030</i>)		43 MoReg 1418	43 MoReg 3117	
2 CSR 20-3.040	Administrative Services (<i>Changed to 2 CSR 110-4.040</i>)		43 MoReg 1418	43 MoReg 3117	
2 CSR 20-3.050	Administrative Services		43 MoReg 1419R	43 MoReg 3114R	
2 CSR 50-1.010	Fairs		43 MoReg 1258R	43 MoReg 3114R	
2 CSR 50-2.010	Fairs		43 MoReg 1259R	43 MoReg 3115R	
2 CSR 50-3.020	Fairs		43 MoReg 1259R	43 MoReg 3115R	
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2 CSR 50-5.010	Fairs		43 MoReg 1259R	43 MoReg 3115R	
2 CSR 50-6.010	Fairs		43 MoReg 1260R	43 MoReg 3115R	
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2 CSR 50-7.010	Fairs		43 MoReg 1261R	43 MoReg 3116R	
2 CSR 60-1.010	Grain Inspection and Warehousing		43 MoReg 1419	43 MoReg 3602	
2 CSR 60-2.010	Grain Inspection and Warehousing		43 MoReg 1420R	43 MoReg 3602R	
2 CSR 60-4.016	Grain Inspection and Warehousing		43 MoReg 1420R	43 MoReg 3602R	
2 CSR 60-4.045	Grain Inspection and Warehousing		43 MoReg 1420R	43 MoReg 3602R	
2 CSR 60-4.060	Grain Inspection and Warehousing		43 MoReg 1420R	43 MoReg 3602R	
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2 CSR 60-4.080	Grain Inspection and Warehousing		43 MoReg 1421	43 MoReg 3603	
2 CSR 60-4.090	Grain Inspection and Warehousing		43 MoReg 1421R	43 MoReg 3603R	
2 CSR 60-4.120	Grain Inspection and Warehousing		43 MoReg 1422	43 MoReg 3603	
2 CSR 60-4.130	Grain Inspection and Warehousing		43 MoReg 1422	43 MoReg 3603	
2 CSR 60-4.170	Grain Inspection and Warehousing		43 MoReg 1422	43 MoReg 3603	
2 CSR 60-5.040	Grain Inspection and Warehousing		43 MoReg 1422R	43 MoReg 3604R	
2 CSR 70-1.010	Plant Industries		43 MoReg 1549	43 MoReg 3820	
2 CSR 70-10.080	Plant Industries		43 MoReg 1550	43 MoReg 3820	
2 CSR 70-11.020	Plant Industries		43 MoReg 1554R	43 MoReg 3820R	
2 CSR 70-11.030	Plant Industries		43 MoReg 1554R	43 MoReg 3820R	
2 CSR 70-11.050	Plant Industries		43 MoReg 1555R	43 MoReg 3821R	
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2 CSR 70-17.100	Plant Industries		This Issue		
2 CSR 70-17.110	Plant Industries		This Issue		
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2 CSR 70-25.070	Plant Industries		43 MoReg 1559R	43 MoReg 3823W	
2 CSR 70-35.010	Plant Industries		43 MoReg 1560	43 MoReg 3824	
2 CSR 70-35.031	Plant Industries		43 MoReg 1560R	43 MoReg 3824R	
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2 CSR 70-40.050	Plant Industries		43 MoReg 1562R	43 MoReg 3825W	
2 CSR 70-40.055	Plant Industries		43 MoReg 1562R	43 MoReg 3825W	
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2 CSR 90-10.016	Weights, Measures and Consumer Protection		43 MoReg 1998R	43 MoReg 3825R	
2 CSR 90-11.010	Weights, Measures and Consumer Protection		43 MoReg 1998	43 MoReg 3825	
2 CSR 90-20.040	Weights, Measures and Consumer Protection		43 MoReg 1999	43 MoReg 3826	
2 CSR 90-21.010	Weights, Measures and Consumer Protection		43 MoReg 1999	43 MoReg 3826	
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2 CSR 90-23.010	Weights, Measures and Consumer Protection		43 MoReg 2001	43 MoReg 3826	
2 CSR 90-25.010	Weights, Measures and Consumer Protection		43 MoReg 2002	43 MoReg 3826	
2 CSR 90-30.040	Weights, Measures and Consumer Protection		43 MoReg 667	43 MoReg 1919	
2 CSR 90-30.050	Weights, Measures and Consumer Protection		43 MoReg 2002	43 MoReg 3827	
2 CSR 90-30.070	Weights, Measures and Consumer Protection		43 MoReg 2004	43 MoReg 3827	
2 CSR 90-30.080	Weights, Measures and Consumer Protection		43 MoReg 2005	43 MoReg 3827	
2 CSR 90-30.090	Weights, Measures and Consumer Protection		43 MoReg 2006	43 MoReg 3827	
2 CSR 90-30.100	Weights, Measures and Consumer Protection		43 MoReg 2006	43 MoReg 3827	
2 CSR 90-36.010	Weights, Measures and Consumer Protection		43 MoReg 2007	43 MoReg 3827	
2 CSR 90-38.010	Weights, Measures and Consumer Protection		43 MoReg 2012R		
2 CSR 90-38.020	Weights, Measures and Consumer Protection		43 MoReg 2012R		
2 CSR 90-38.030	Weights, Measures and Consumer Protection		43 MoReg 2012R		
2 CSR 90-38.040	Weights, Measures and Consumer Protection		43 MoReg 2013R		
2 CSR 90-38.050	Weights, Measures and Consumer Protection		43 MoReg 2013R		
2 CSR 100-2.010	Missouri Agricultural and Small Business Development Authority		43 MoReg 1563R	43 MoReg 3828R	
2 CSR 100-2.020	Missouri Agricultural and Small Business Development Authority		43 MoReg 1563R	43 MoReg 3828W	
2 CSR 100-2.030	Missouri Agricultural and Small Business Development Authority		43 MoReg 1563R	43 MoReg 3828W	
2 CSR 100-2.040	Missouri Agricultural and Small Business Development Authority		43 MoReg 1563R	43 MoReg 3828W	
2 CSR 100-2.050	Missouri Agricultural and Small Business Development Authority		43 MoReg 1564R	43 MoReg 3828W	
2 CSR 100-3.010	Missouri Agricultural and Small Business Development Authority		43 MoReg 1564R	43 MoReg 3829R	
2 CSR 100-3.020	Missouri Agricultural and Small Business Development Authority		43 MoReg 1564R	43 MoReg 3829R	
2 CSR 100-3.030	Missouri Agricultural and Small Business Development Authority		43 MoReg 1564R	43 MoReg 3829R	
2 CSR 100-3.040	Missouri Agricultural and Small Business Development Authority		43 MoReg 1565R	43 MoReg 3829R	
2 CSR 100-3.050	Missouri Agricultural and Small Business Development Authority		43 MoReg 1565R	43 MoReg 3829R	
2 CSR 100-4.010	Missouri Agricultural and Small Business Development Authority		43 MoReg 1565R	43 MoReg 3829R	
2 CSR 100-4.020	Missouri Agricultural and Small Business Development Authority		43 MoReg 1565R	43 MoReg 3830R	
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2 CSR 100-4.040	Missouri Agricultural and Small Business Development Authority		43 MoReg 1566R	43 MoReg 3830R	
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2 CSR 100-10.010	Missouri Agricultural and Small Business Development Authority		43 MoReg 1566	43 MoReg 3830	
2 CSR 110-1.010	Office of the Director		43 MoReg 1423R	43 MoReg 3116R	
2 CSR 110-2.010	Office of the Director		43 MoReg 1423R	43 MoReg 3116R	
2 CSR 110-4.010	Office of the Director (<i>Changed from 2 CSR 20-3.010</i>)		43 MoReg 1417	43 MoReg 3116	
2 CSR 110-4.020	Office of the Director (<i>Changed from 2 CSR 20-3.020</i>)		43 MoReg 1418	43 MoReg 3117	
2 CSR 110-4.030	Office of the Director (<i>Changed from 2 CSR 20-3.030</i>)		43 MoReg 1418	43 MoReg 3117	
2 CSR 110-4.040	Office of the Director (<i>Changed from 2 CSR 20-3.040</i>)		43 MoReg 1418	43 MoReg 3117	
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3 CSR 10-11.115	Conservation Commission		43 MoReg 2833		
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3 CSR 10-11.140	Conservation Commission		43 MoReg 2837		
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3 CSR 10-11.185	Conservation Commission		43 MoReg 2845		
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3 CSR 10-11.215	Conservation Commission		43 MoReg 2852		
3 CSR 10-20.805	Conservation Commission		43 MoReg 2853		
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4 CSR 80-2.010	Division of Economic Development Programs*		43 MoReg 3059R		
4 CSR 80-2.020	Division of Economic Development Programs*		43 MoReg 3059R		
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4 CSR 80-7.040	Division of Economic Development Programs*		43 MoReg 3062R		
4 CSR 85-2.010	Division of Business and Community Services		43 MoReg 3062		
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4 CSR 85-2.020	Division of Business and Community Services		43 MoReg 3063		
4 CSR 85-2.030	Division of Business and Community Services		43 MoReg 3064		
4 CSR 85-2.040	Division of Business and Community Services		43 MoReg 3065R		
4 CSR 85-6.010	Division of Business and Community Services		43 MoReg 3065R		
4 CSR 85-7.010	Division of Business and Community Services		43 MoReg 3065R		
4 CSR 195-1.010	Division of Workforce Development		43 MoReg 3066		
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4 CSR 195-2.030	Division of Workforce Development		43 MoReg 3067R		
4 CSR 195-3.010	Division of Workforce Development		43 MoReg 3067R		
4 CSR 195-3.020	Division of Workforce Development		43 MoReg 3067R		
4 CSR 195-4.010	Division of Workforce Development		43 MoReg 3067R		
4 CSR 195-5.010	Division of Workforce Development		43 MoReg 3068R		
4 CSR 195-5.020	Division of Workforce Development		43 MoReg 3068R		
4 CSR 195-5.030	Division of Workforce Development		43 MoReg 3068R		
4 CSR 240-2.010	Public Service Commission		43 MoReg 3762		
4 CSR 240-2.070	Public Service Commission		43 MoReg 3762		
4 CSR 240-2.120	Public Service Commission		43 MoReg 3763		
4 CSR 240-2.205	Public Service Commission		43 MoReg 3763		
4 CSR 240-3.010	Public Service Commission		43 MoReg 3764		
4 CSR 240-3.015	Public Service Commission		43 MoReg 3764R		
4 CSR 240-3.020	Public Service Commission		43 MoReg 3764R		
4 CSR 240-3.025	Public Service Commission		43 MoReg 3765R		
4 CSR 240-3.030	Public Service Commission		43 MoReg 3765		
4 CSR 240-3.110	Public Service Commission		43 MoReg 1567R	43 MoReg 3830R	
4 CSR 240-3.115	Public Service Commission		43 MoReg 1567R	43 MoReg 3831R	
4 CSR 240-3.120	Public Service Commission		43 MoReg 1567R	43 MoReg 3831R	
4 CSR 240-3.125	Public Service Commission		43 MoReg 1568R	43 MoReg 3831R	
4 CSR 240-3.145	Public Service Commission		43 MoReg 3766R		
4 CSR 240-3.161	Public Service Commission		43 MoReg 1423R	43 MoReg 3832R	
4 CSR 240-3.165	Public Service Commission		43 MoReg 1568R	43 MoReg 3832R	
4 CSR 240-3.180	Public Service Commission		43 MoReg 3766R		
4 CSR 240-3.185	Public Service Commission		43 MoReg 3766R		
4 CSR 240-3.210	Public Service Commission		43 MoReg 1569R	43 MoReg 3832R	
4 CSR 240-3.215	Public Service Commission		43 MoReg 1569R	43 MoReg 3832R	
4 CSR 240-3.220	Public Service Commission		43 MoReg 1569R	43 MoReg 3833R	
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4 CSR 240-3.325	Public Service Commission		43 MoReg 1573R	43 MoReg 3836R	
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4 CSR 240-3.405	Public Service Commission		43 MoReg 1574R	43 MoReg 3836R	
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4 CSR 240-3.610	Public Service Commission		43 MoReg 1576R	43 MoReg 3838R	
4 CSR 240-3.615	Public Service Commission		43 MoReg 1577R	43 MoReg 3838R	
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4 CSR 240-10.040	Public Service Commission		43 MoReg 3768		
4 CSR 240-10.085	Public Service Commission		43 MoReg 1424	43 MoReg 3839	
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4 CSR 240-10.135	Public Service Commission		43 MoReg 1579	43 MoReg 3846	
4 CSR 240-10.145	Public Service Commission		43 MoReg 1580	43 MoReg 3846	
4 CSR 240-13.010	Public Service Commission		43 MoReg 3768		
4 CSR 240-13.015	Public Service Commission		43 MoReg 3769		
4 CSR 240-13.020	Public Service Commission		43 MoReg 3769		
4 CSR 240-13.025	Public Service Commission		43 MoReg 3770		
4 CSR 240-13.030	Public Service Commission		43 MoReg 3770		
4 CSR 240-13.050	Public Service Commission		43 MoReg 3770		
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4 CSR 240-20.090	Public Service Commission		43 MoReg 1426	43 MoReg 3847	
4 CSR 240-20.105	Public Service Commission		43 MoReg 3776		
4 CSR 240-28.010	Public Service Commission		43 MoReg 981	43 MoReg 3279	
4 CSR 240-28.011	Public Service Commission		43 MoReg 982	43 MoReg 3279	
4 CSR 240-28.012	Public Service Commission		43 MoReg 983	43 MoReg 3280	
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4 CSR 240-28.014	Public Service Commission		43 MoReg 984	43 MoReg 3282	
4 CSR 240-28.015	Public Service Commission		43 MoReg 985	43 MoReg 3282	
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4 CSR 240-28.020	Public Service Commission		43 MoReg 986R	43 MoReg 3282R	
4 CSR 240-28.030	Public Service Commission		43 MoReg 986R	43 MoReg 3283R	
4 CSR 240-28.040	Public Service Commission		43 MoReg 987R	43 MoReg 3283R	
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4 CSR 240-29.010	Public Service Commission		43 MoReg 989R	43 MoReg 3117W	
4 CSR 240-29.020	Public Service Commission		43 MoReg 989R	43 MoReg 3117W	
4 CSR 240-29.030	Public Service Commission		43 MoReg 989R	43 MoReg 3118W	
4 CSR 240-29.040	Public Service Commission		43 MoReg 990R	43 MoReg 3118W	
4 CSR 240-29.050	Public Service Commission		43 MoReg 990R	43 MoReg 3118W	
4 CSR 240-29.060	Public Service Commission		43 MoReg 991R	43 MoReg 3119W	
4 CSR 240-29.080	Public Service Commission		43 MoReg 991R	43 MoReg 3119W	
4 CSR 240-29.090	Public Service Commission		43 MoReg 991R	43 MoReg 3120W	
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4 CSR 240-31.016	Public Service Commission		43 MoReg 999	43 MoReg 3288	
4 CSR 240-31.020	Public Service Commission		43 MoReg 1000R	43 MoReg 3289R	
4 CSR 240-31.030	Public Service Commission		43 MoReg 1000R	43 MoReg 3289R	
4 CSR 240-31.040	Public Service Commission		43 MoReg 1000R	43 MoReg 3289R	
4 CSR 240-31.060	Public Service Commission		43 MoReg 1001R	43 MoReg 3290R	
4 CSR 240-31.090	Public Service Commission		43 MoReg 1001R	43 MoReg 3290R	
4 CSR 240-31.100	Public Service Commission		43 MoReg 1001R	43 MoReg 3290R	
4 CSR 240-31.110	Public Service Commission		43 MoReg 1002R	43 MoReg 3291R	
4 CSR 240-31.120	Public Service Commission		43 MoReg 1002R	43 MoReg 3291R	
4 CSR 240-31.130	Public Service Commission		43 MoReg 1003R	43 MoReg 3291R	
4 CSR 240-34.010	Public Service Commission		43 MoReg 1003R	43 MoReg 3122W	
4 CSR 240-34.020	Public Service Commission		43 MoReg 1003R	43 MoReg 3122W	
4 CSR 240-34.030	Public Service Commission		43 MoReg 1004R	43 MoReg 3123W	
4 CSR 240-34.040	Public Service Commission		43 MoReg 1004R	43 MoReg 3123W	
4 CSR 240-34.050	Public Service Commission		43 MoReg 1004R	43 MoReg 3123W	
4 CSR 240-34.060	Public Service Commission		43 MoReg 1005R	43 MoReg 3124W	
4 CSR 240-34.070	Public Service Commission		43 MoReg 1005R	43 MoReg 3124W	
4 CSR 240-34.080	Public Service Commission		43 MoReg 1005R	43 MoReg 3124W	
4 CSR 240-34.090	Public Service Commission		43 MoReg 1006R	43 MoReg 3125W	
4 CSR 240-36.010	Public Service Commission		43 MoReg 1006R	43 MoReg 3125W	
4 CSR 240-36.020	Public Service Commission		43 MoReg 1007R	43 MoReg 3125W	
4 CSR 240-36.030	Public Service Commission		43 MoReg 1007R	43 MoReg 3126W	
4 CSR 240-36.040	Public Service Commission		43 MoReg 1007R	43 MoReg 3126W	
4 CSR 240-36.050	Public Service Commission		43 MoReg 1008R	43 MoReg 3126W	
4 CSR 240-37.010	Public Service Commission		43 MoReg 1008R	43 MoReg 3291R	
4 CSR 240-37.020	Public Service Commission		43 MoReg 1008R	43 MoReg 3292R	
4 CSR 240-37.030	Public Service Commission		43 MoReg 1009R	43 MoReg 3292R	
4 CSR 240-37.040	Public Service Commission		43 MoReg 1009R	43 MoReg 3292R	
4 CSR 240-37.050	Public Service Commission		43 MoReg 1009R	43 MoReg 3293R	
4 CSR 240-37.060	Public Service Commission		43 MoReg 1010R	43 MoReg 3293R	
4 CSR 240-40.020	Public Service Commission		43 MoReg 1581	43 MoReg 3860	
4 CSR 240-40.030	Public Service Commission		43 MoReg 1583	43 MoReg 3861	
4 CSR 240-40.080	Public Service Commission		43 MoReg 1596	43 MoReg 3861	
4 CSR 240-40.085	Public Service Commission		This Issue		
4 CSR 240-40.090	Public Service Commission		This Issue		
4 CSR 265-2.300	Division of Motor Carrier and Railroad Safety (Changed to 7 CSR 265-8.300)		43 MoReg 740	43 MoReg 2684	
4 CSR 265-2.320	Division of Motor Carrier and Railroad Safety (Changed to 7 CSR 265-8.320)		43 MoReg 741	43 MoReg 2685	
4 CSR 340-2	Division of Energy				43 MoReg 15 43 MoReg 3869

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5 CSR 20-100.120	Division of Learning Services		43 MoReg 3779R		
5 CSR 20-100.160	Division of Learning Services		43 MoReg 3068		
5 CSR 20-100.190	Division of Learning Services		43 MoReg 3780		
5 CSR 20-100.200	Division of Learning Services		43 MoReg 3070		
5 CSR 20-100.260	Division of Learning Services		This Issue		
5 CSR 20-100.300	Division of Learning Services (Changed from 5 CSR 20-600.120)				43 MoReg 3651I
5 CSR 20-100.310	Division of Learning Services (Changed from 5 CSR 20-600.130)				43 MoReg 3651I
5 CSR 20-100.320	Division of Learning Services (Changed from 5 CSR 20-600.140)				43 MoReg 3651I
5 CSR 20-100.330	Division of Learning Services (Changed from 5 CSR 20-600.110)		This Issue		
5 CSR 20-300.140	Division of Learning Services		43 MoReg 252R 43 MoReg 2013R	43 MoReg 3604R	
5 CSR 20-400.510	Division of Learning Services		43 MoReg 2014	43 MoReg 3604	
5 CSR 20-400.520	Division of Learning Services		43 MoReg 2015	43 MoReg 3605	
5 CSR 20-400.560	Division of Learning Services		43 MoReg 2016	43 MoReg 3605	
5 CSR 20-400.640	Division of Learning Services		42 MoReg 1581 43 MoReg 2017	43 MoReg 3607	
5 CSR 20-500.110	Division of Learning Services		43 MoReg 3780R		
5 CSR 20-600.110	Division of Learning Services (Changed to 5 CSR 20-100.330)		This Issue		
5 CSR 20-600.120	Division of Learning Services (Changed to 5 CSR 20-100.300)				43 MoReg 3651I
5 CSR 20-600.130	Division of Learning Services (Changed to 5 CSR 20-100.310)				43 MoReg 3651I
5 CSR 20-600.140	Division of Learning Services (Changed to 5 CSR 20-100.320)				43 MoReg 3651I
5 CSR 30-261.010	Division of Financial and Administrative Services		This Issue		
5 CSR 30-345.030	Division of Financial and Administrative Services		43 MoReg 3071		
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6 CSR 10-2.070	Commissioner of Higher Education		43 MoReg 2020R	43 MoReg 3293R	
6 CSR 10-4.010	Commissioner of Higher Education		43 MoReg 123 43 MoReg 3474		
6 CSR 10-8.010	Commissioner of Higher Education		43 MoReg 2020R	43 MoReg 3294R	
6 CSR 10-8.020	Commissioner of Higher Education		43 MoReg 2020R	43 MoReg 3294R	
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7 CSR	Department of Transportation				41 MoReg 845
7 CSR 10-11.010	Missouri Highways and Transportation Commission		43 MoReg 1261	43 MoReg 3294	
7 CSR 10-11.020	Missouri Highways and Transportation Commission		43 MoReg 1262	43 MoReg 3294	
7 CSR 10-11.030	Missouri Highways and Transportation Commission		43 MoReg 1265	43 MoReg 3294	
7 CSR 10-19.010	Missouri Highways and Transportation Commission		42 MoReg 93R		
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8 CSR	Department of Labor and Industrial Relations				41 MoReg 845
8 CSR 30-1.010	Division of Labor Standards		43 MoReg 2021	43 MoReg 3862	
8 CSR 30-2.010	Division of Labor Standards		43 MoReg 2021	43 MoReg 3862	
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8 CSR 30-3.010	Division of Labor Standards		43 MoReg 2028	43 MoReg 3862W	
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8 CSR 30-3.030	Division of Labor Standards		43 MoReg 2029 43 MoReg 2030	43 MoReg 3862W 43 MoReg 3863W	
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8 CSR 30-6.010	Division of Labor Standards		43 MoReg 2038 43 MoReg 2039	43 MoReg 3865W 43 MoReg 3865	
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9 CSR	Department of Mental Health				41 MoReg 845
9 CSR 10-5.240	Director, Department of Mental Health (Changed to 9 CSR 10-7.035)		43 MoReg 2975		
9 CSR 10-7.010	Director, Department of Mental Health		43 MoReg 3781		
9 CSR 10-7.020	Director, Department of Mental Health		43 MoReg 3786		
9 CSR 10-7.030	Director, Department of Mental Health		43 MoReg 3788		
9 CSR 10-7.035	Director, Department of Mental Health (Changed from 9 CSR 10-5.240)		43 MoReg 2975		
9 CSR 10-7.040	Director, Department of Mental Health		43 MoReg 3794		
9 CSR 10-7.050	Director, Department of Mental Health		43 MoReg 3795		
9 CSR 10-7.080	Director, Department of Mental Health		43 MoReg 3796		
9 CSR 10-7.090	Director, Department of Mental Health		43 MoReg 3797		
9 CSR 10-7.100	Director, Department of Mental Health		43 MoReg 3799		
9 CSR 10-7.110	Director, Department of Mental Health		43 MoReg 3800		
9 CSR 10-7.120	Director, Department of Mental Health		43 MoReg 3802		

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10 CSR 1-3.010	Director's Office		43 MoReg 2039	This Issue	
10 CSR 10-2.205	Air Conservation Commission		43 MoReg 2039		
10 CSR 10-2.215	Air Conservation Commission		43 MoReg 1015R	43 MoReg 3607R	
10 CSR 10-2.230	Air Conservation Commission		43 MoReg 2042		
10 CSR 10-2.260	Air Conservation Commission		43 MoReg 1266	This Issue	
10 CSR 10-2.300	Air Conservation Commission		43 MoReg 1270	This Issue	
10 CSR 10-2.320	Air Conservation Commission		43 MoReg 1016	43 MoReg 3609	
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10 CSR 10-2.390	Air Conservation Commission		43 MoReg 1018R	43 MoReg 3612R	
10 CSR 10-5.220	Air Conservation Commission		43 MoReg 2046		
10 CSR 10-5.295	Air Conservation Commission		43 MoReg 2052		
10 CSR 10-5.330	Air Conservation Commission		43 MoReg 2055		
10 CSR 10-5.360	Air Conservation Commission		43 MoReg 1019R	43 MoReg 3613R	
10 CSR 10-5.370	Air Conservation Commission		43 MoReg 1019R	43 MoReg 3614R	
10 CSR 10-5.410	Air Conservation Commission		43 MoReg 1020R	43 MoReg 3616R	
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10 CSR 10-5.455	Air Conservation Commission		43 MoReg 1020R	43 MoReg 3619R	
10 CSR 10-5.500	Air Conservation Commission		43 MoReg 1272	This Issue	
10 CSR 10-5.520	Air Conservation Commission		43 MoReg 1021R	43 MoReg 3620R	
10 CSR 10-5.530	Air Conservation Commission		43 MoReg 1277	This Issue	
10 CSR 10-5.540	Air Conservation Commission		43 MoReg 1282	This Issue	
10 CSR 10-5.570	Air Conservation Commission		43 MoReg 1021	43 MoReg 3621	
10 CSR 10-6.030	Air Conservation Commission		43 MoReg 1024	43 MoReg 3624	
10 CSR 10-6.040	Air Conservation Commission		43 MoReg 1026	43 MoReg 3626	
10 CSR 10-6.045	Air Conservation Commission		43 MoReg 2073		
10 CSR 10-6.060	Air Conservation Commission		43 MoReg 2076		
10 CSR 10-6.062	Air Conservation Commission		43 MoReg 2101		
10 CSR 10-6.065	Air Conservation Commission		43 MoReg 2104		
10 CSR 10-6.070	Air Conservation Commission		43 MoReg 1287	This Issue	
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10 CSR 10-6.110	Air Conservation Commission		43 MoReg 1029	43 MoReg 3626	
10 CSR 10-6.120	Air Conservation Commission		43 MoReg 1303	This Issue	
10 CSR 10-6.130	Air Conservation Commission		43 MoReg 1304		
10 CSR 10-6.161	Air Conservation Commission		43 MoReg 1312	This Issue	
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10 CSR 10-6.200	Air Conservation Commission		43 MoReg 1032	43 MoReg 3629	
10 CSR 10-6.220	Air Conservation Commission		43 MoReg 2127		
10 CSR 10-6.241	Air Conservation Commission		43 MoReg 1313	This Issue	
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10 CSR 10-6.300	Air Conservation Commission		43 MoReg 1320	This Issue	
10 CSR 10-6.330	Air Conservation Commission		43 MoReg 2134		
10 CSR 10-6.362	Air Conservation Commission		43 MoReg 1046R	43 MoReg 3630R	
10 CSR 10-6.364	Air Conservation Commission		43 MoReg 1047R	43 MoReg 3631R	
10 CSR 10-6.366	Air Conservation Commission		43 MoReg 1047R	43 MoReg 3632R	
10 CSR 10-6.372	Air Conservation Commission		43 MoReg 2137		
10 CSR 10-6.374	Air Conservation Commission		43 MoReg 2144		
10 CSR 10-6.376	Air Conservation Commission		43 MoReg 2151		
10 CSR 10-6.380	Air Conservation Commission		43 MoReg 1326	This Issue	
10 CSR 10-6.390	Air Conservation Commission		43 MoReg 2158		
10 CSR 20-2.010	Clean Water Commission		43 MoReg 1148	43 MoReg 3633	
10 CSR 20-4.010	Clean Water Commission		43 MoReg 1596R	This IssueR	
10 CSR 20-4.030	Clean Water Commission		43 MoReg 1596	This Issue	
10 CSR 20-4.040	Clean Water Commission		43 MoReg 1598	This Issue	
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10 CSR 20-6.090	Clean Water Commission		43 MoReg 1637	This Issue	
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10 CSR 20-7.015	Clean Water Commission		43 MoReg 1655	This Issue	
10 CSR 20-8.020	Clean Water Commission		43 MoReg 1669R	This IssueR	
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10 CSR 22-2.010	Dam and Reservoir Safety Council		43 MoReg 2162		
10 CSR 22-2.020	Dam and Reservoir Safety Council		43 MoReg 2162		
10 CSR 22-2.100	Dam and Reservoir Safety Council		43 MoReg 2163		
10 CSR 22-3.020	Dam and Reservoir Safety Council		43 MoReg 2163		
10 CSR 22-3.030	Dam and Reservoir Safety Council		43 MoReg 2165		
10 CSR 22-3.040	Dam and Reservoir Safety Council		43 MoReg 2166		
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10 CSR 22-4.020	Dam and Reservoir Safety Council		43 MoReg 2170		
10 CSR 23-1.010	Well Installation		43 MoReg 2170		
10 CSR 23-1.030	Well Installation*		43 MoReg 2176R		
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10 CSR 23-1.090	Well Installation		43 MoReg 2183		
10 CSR 23-1.105	Well Installation		43 MoReg 2184		
10 CSR 23-1.130	Well Installation*		43 MoReg 2185R		
10 CSR 23-1.140	Well Installation		43 MoReg 2185		
10 CSR 23-1.155	Well Installation*		43 MoReg 2185R		
10 CSR 23-1.160	Well Installation		43 MoReg 2186		
10 CSR 23-2.010	Well Installation		43 MoReg 2186		
10 CSR 23-2.020	Well Installation		43 MoReg 2188		
10 CSR 23-3.010	Well Installation		43 MoReg 2188		
10 CSR 23-3.020	Well Installation		43 MoReg 2191		
10 CSR 23-3.030	Well Installation		43 MoReg 2192		
10 CSR 23-3.040	Well Installation*		43 MoReg 2203R		
10 CSR 23-3.050	Well Installation		43 MoReg 2203		
10 CSR 23-3.060	Well Installation*		43 MoReg 2213R		
10 CSR 23-3.070	Well Installation*		43 MoReg 2213R		
10 CSR 23-3.080	Well Installation		43 MoReg 2213		
10 CSR 23-3.090	Well Installation		43 MoReg 2218		
10 CSR 23-3.100	Well Installation*		43 MoReg 2246R		
10 CSR 23-3.110	Well Installation		43 MoReg 2246		
10 CSR 23-4.010	Well Installation*		43 MoReg 2250R		
10 CSR 23-4.020	Well Installation*		43 MoReg 2250R		
10 CSR 23-4.030	Well Installation*		43 MoReg 2250R		
10 CSR 23-4.050	Well Installation		43 MoReg 2250		
10 CSR 23-4.060	Well Installation		43 MoReg 2251		
10 CSR 23-4.080	Well Installation		43 MoReg 2255		
10 CSR 23-5.010	Well Installation*		43 MoReg 2256R		
10 CSR 23-5.020	Well Installation*		43 MoReg 2256R		
10 CSR 23-5.030	Well Installation		43 MoReg 2256		
10 CSR 23-5.040	Well Installation		43 MoReg 2256		
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10 CSR 23-5.060	Well Installation		43 MoReg 2259		
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10 CSR 23-6.060	Well Installation*		43 MoReg 2263R		
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10 CSR 25-2.010	Hazardous Waste Management Commission		43 MoReg 1759		
10 CSR 25-2.020	Hazardous Waste Management Commission		43 MoReg 1759R		
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10 CSR 25-4.261	Hazardous Waste Management Commission		43 MoReg 1761		
10 CSR 25-5.262	Hazardous Waste Management Commission		43 MoReg 1765		
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10 CSR 60-6.050	Safe Drinking Water Commission		43 MoReg 1050R	43 MoReg 3128R	
10 CSR 60-6.060	Safe Drinking Water Commission		43 MoReg 1835	This Issue	
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10 CSR 60-11.030	Safe Drinking Water Commission		43 MoReg 1861	This Issue	
10 CSR 60-13.010	Safe Drinking Water Commission		43 MoReg 1861	This Issue	
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10 CSR 70-5.030	Soil and Water Districts Commission		43 MoReg 1444	43 MoReg 3642	
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10 CSR 80-8.020	Solid Waste Management		43 MoReg 1895	This Issue	
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11 CSR 30-9.010	Office of the Director		43 MoReg 1329R		
11 CSR 30-9.020	Office of the Director		43 MoReg 1329R		
11 CSR 30-9.030	Office of the Director		43 MoReg 1329R		
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11 CSR 45-1.090	Missouri Gaming Commission		43 MoReg 1155	43 MoReg 3295	
11 CSR 45-4.020	Missouri Gaming Commission		43 MoReg 1156	43 MoReg 3295	
11 CSR 45-4.210	Missouri Gaming Commission		43 MoReg 1157	43 MoReg 3295	
11 CSR 45-4.260	Missouri Gaming Commission		43 MoReg 1157	43 MoReg 3295	
11 CSR 45-4.380	Missouri Gaming Commission		43 MoReg 1158	43 MoReg 3295	
11 CSR 45-4.420	Missouri Gaming Commission		43 MoReg 3485		
11 CSR 45-5.065	Missouri Gaming Commission		43 MoReg 1158	43 MoReg 3296	
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11 CSR 45-5.260	Missouri Gaming Commission		43 MoReg 1159	43 MoReg 3296	
11 CSR 45-6.010	Missouri Gaming Commission		43 MoReg 1160	43 MoReg 3296	
11 CSR 45-6.020	Missouri Gaming Commission		43 MoReg 1160	43 MoReg 3296	
11 CSR 45-6.025	Missouri Gaming Commission		43 MoReg 1162	43 MoReg 3297	
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11 CSR 45-7.160	Missouri Gaming Commission		43 MoReg 1163	43 MoReg 3297	
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11 CSR 45-8.060	Missouri Gaming Commission		43 MoReg 1164	43 MoReg 3297	
11 CSR 45-8.090	Missouri Gaming Commission		43 MoReg 1165	43 MoReg 3298	
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11 CSR 45-9.101	Missouri Gaming Commission		43 MoReg 1166	43 MoReg 3298	
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11 CSR 45-9.106	Missouri Gaming Commission		43 MoReg 3486		
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11 CSR 45-9.116	Missouri Gaming Commission		43 MoReg 3487		
11 CSR 45-9.117	Missouri Gaming Commission		43 MoReg 3487		
11 CSR 45-9.120	Missouri Gaming Commission		43 MoReg 1166	43 MoReg 3298	
11 CSR 45-10.020	Missouri Gaming Commission		43 MoReg 1449	43 MoReg 3645	
11 CSR 45-30.020	Missouri Gaming Commission		43 MoReg 3488R		
11 CSR 45-30.065	Missouri Gaming Commission		43 MoReg 1167	43 MoReg 3299	
11 CSR 45-30.480	Missouri Gaming Commission		43 MoReg 1167R	43 MoReg 3299R	
11 CSR 45-30.523	Missouri Gaming Commission		43 MoReg 1167R	43 MoReg 3299R	
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11 CSR 45-40.030	Missouri Gaming Commission		43 MoReg 3488		
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11 CSR 70-2.120	Division of Alcohol and Tobacco Control		43 MoReg 3250		
11 CSR 70-2.130	Division of Alcohol and Tobacco Control		43 MoReg 3252		
11 CSR 70-2.140	Division of Alcohol and Tobacco Control		43 MoReg 1915	43 MoReg 3865	
11 CSR 70-2.150	Division of Alcohol and Tobacco Control		43 MoReg 3253		
11 CSR 70-2.170	Division of Alcohol and Tobacco Control		43 MoReg 3254		
11 CSR 70-2.180	Division of Alcohol and Tobacco Control		43 MoReg 3255		
11 CSR 70-2.190	Division of Alcohol and Tobacco Control		43 MoReg 3255		
11 CSR 70-2.200	Division of Alcohol and Tobacco Control		43 MoReg 1917R	43 MoReg 3865R	
11 CSR 70-2.220	Division of Alcohol and Tobacco Control		43 MoReg 2462R	43 MoReg 3865R	
11 CSR 70-2.230	Division of Alcohol and Tobacco Control		43 MoReg 3257		
11 CSR 70-2.240	Division of Alcohol and Tobacco Control	43 MoReg 3199			
11 CSR 70-2.250	Division of Alcohol and Tobacco Control		43 MoReg 3258		
11 CSR 70-2.260	Division of Alcohol and Tobacco Control		43 MoReg 3259		
11 CSR 70-2.270	Division of Alcohol and Tobacco Control		43 MoReg 3259		
11 CSR 70-2.280	Division of Alcohol and Tobacco Control		43 MoReg 3260		
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11 CSR 70-3.020	Division of Alcohol and Tobacco Control		43 MoReg 2462R	43 MoReg 3866R	
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12 CSR 10-3.017	Director of Revenue		43 MoReg 3263		
	Director of Revenue		43 MoReg 3266		
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12 CSR 10-3.858	Director of Revenue		43 MoReg 3268		
	(<i>Changed to 12 CSR 10-110.858</i>)				
12 CSR 10-3.876	Director of Revenue		43 MoReg 3266		
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12 CSR 10-4.320	Director of Revenue		43 MoReg 3268		
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12 CSR 10-10.120	Director of Revenue		43 MoReg 3268		
12 CSR 10-23.100	Director of Revenue		43 MoReg 3489		
12 CSR 10-23.260	Director of Revenue		43 MoReg 3490		
12 CSR 10-23.280	Director of Revenue		43 MoReg 3491		
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12 CSR 10-24.470	Director of Revenue		43 MoReg 2645R	This IssueR	
12 CSR 10-26.080	Director of Revenue		43 MoReg 3495		
12 CSR 10-26.180	Director of Revenue		43 MoReg 3496		
12 CSR 10-26.190	Director of Revenue		43 MoReg 3496		
12 CSR 10-41.010	Director of Revenue	43 MoReg 3347	43 MoReg 3497		
12 CSR 10-101.500	Director of Revenue		43 MoReg 3269		
12 CSR 10-103.017	Director of Revenue		43 MoReg 3266		
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12 CSR 10-103.395	Director of Revenue		43 MoReg 3270		
12 CSR 10-103.700	Director of Revenue		43 MoReg 3270		

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12 CSR 10-103.876	Director of Revenue (<i>Changed from 12 CSR 10-3.876</i>)		43 MoReg 3266		
12 CSR 10-110.858	Director of Revenue (<i>Changed from 12 CSR 10-3.858</i>)		43 MoReg 3268		
12 CSR 10-113.320	Director of Revenue (<i>Changed from 12 CSR 10-4.320</i>)		43 MoReg 3268		
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13 CSR	Department of Social Services				42 MoReg 990
13 CSR 5-2.010	Office of the Director (<i>Changed from 13 CSR 45-2.010</i>)		43 MoReg 2654		
13 CSR 10-3.010	Division of Finance and Administrative Services (<i>Changed from 13 CSR 35-100.010</i>)		43 MoReg 2544		
13 CSR 10-3.020	Division of Finance and Administrative Services (<i>Changed from 13 CSR 35-100.020</i>)		43 MoReg 2546		
13 CSR 10-3.030	Division of Finance and Administrative Services (<i>Changed from 13 CSR 35-100.030</i>)		43 MoReg 2549		
13 CSR 10-3.040	Division of Finance and Administrative Services (<i>Changed from 13 CSR 40-79.010</i>)		43 MoReg 2553		
13 CSR 10-3.050	Division of Finance and Administrative Services		43 MoReg 2543		
13 CSR 10-4.010	Division of Finance and Administrative Services	43 MoReg 2455	43 MoReg 2462		
13 CSR 15-19.010	Division of Aging		43 MoReg 2853R		
13 CSR 30-2.010	Child Support Enforcement (<i>Changed to 13 CSR 40-108.040</i>)		43 MoReg 2645		
13 CSR 30-4.020	Child Support Enforcement (<i>Changed to 13 CSR 40-104.010</i>)		43 MoReg 2648		
13 CSR 30-5.010	Child Support Enforcement (<i>Changed to 13 CSR 40-102.010</i>)		43 MoReg 2853		
13 CSR 30-5.020	Child Support Enforcement (<i>Changed to 13 CSR 40-106.010</i>)		43 MoReg 3072		
13 CSR 30-6.010	Child Support Enforcement (<i>Changed to 13 CSR 40-104.020</i>)		43 MoReg 3074		
13 CSR 30-7.010	Child Support Enforcement (<i>Changed to 13 CSR 40-100.020</i>)		43 MoReg 3075		
13 CSR 30-8.010	Child Support Enforcement (<i>Changed to 13 CSR 40-100.030</i>)		43 MoReg 2855		
13 CSR 30-9.010	Child Support Enforcement (<i>Changed to 13 CSR 40-108.030</i>)		43 MoReg 2650		
13 CSR 30-10.010	Child Support Enforcement (<i>Changed to 13 CSR 40-110.040</i>)		43 MoReg 2651		
13 CSR 35-31.015	Children's Division		43 MoReg 2652		
13 CSR 35-34.080	Children's Division		43 MoReg 3502		
13 CSR 35-35.050	Children's Division (<i>Changed from 13 CSR 40-30.010</i>)		43 MoReg 2654		
13 CSR 35-60.030	Children's Division		43 MoReg 3081		
13 CSR 35-73.010	Children's Division (<i>Changed from 13 CSR 40-73.010</i>)		43 MoReg 2979		
13 CSR 35-73.012	Children's Division (<i>Changed from 13 CSR 40-73.012</i>)		43 MoReg 2857		
13 CSR 35-73.030	Children's Division (<i>Changed from 13 CSR 40-73.030</i>)		43 MoReg 2858		
13 CSR 35-73.035	Children's Division (<i>Changed from 13 CSR 40-73.035</i>)		43 MoReg 2979		
13 CSR 35-73.040	Children's Division (<i>Changed from 13 CSR 40-73.040</i>)		43 MoReg 2980		
13 CSR 35-73.050	Children's Division (<i>Changed from 13 CSR 40-73.050</i>)		43 MoReg 2980		
13 CSR 35-73.060	Children's Division (<i>Changed from 13 CSR 40-73.060</i>)		43 MoReg 2981		
13 CSR 35-73.070	Children's Division (<i>Changed from 13 CSR 40-73.070</i>)		43 MoReg 2981		
13 CSR 35-73.075	Children's Division (<i>Changed from 13 CSR 40-73.075</i>)		43 MoReg 2981		
13 CSR 35-73.080	Children's Division (<i>Changed from 13 CSR 40-73.080</i>)		43 MoReg 2982		
13 CSR 35-100.010	Children's Division (<i>Changed to 13 CSR 10-3.010</i>)		43 MoReg 2544		
13 CSR 35-100.020	Children's Division (<i>Changed to 13 CSR 10-3.020</i>)		43 MoReg 2546		
13 CSR 35-100.030	Children's Division (<i>Changed to 13 CSR 10-3.030</i>)		43 MoReg 2549		
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13 CSR 40-2.150	Family Support Division		43 MoReg 2551		
13 CSR 40-2.200	Family Support Division		43 MoReg 3084		
13 CSR 40-2.260	Family Support Division		43 MoReg 3085		
13 CSR 40-2.375	Family Support Division		43 MoReg 2552R		
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13 CSR 40-7.020	Family Support Division		43 MoReg 2654		
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13 CSR 40-30.010	Family Support Division (<i>Changed to 13 CSR 35-35.050</i>)		43 MoReg 2654		
13 CSR 40-32.020	Family Support Division		43 MoReg 2856R		
13 CSR 40-34.012	Family Support Division		43 MoReg 1917R	43 MoReg 3866R	
13 CSR 40-34.060	Family Support Division		43 MoReg 3089R		
13 CSR 40-36.001	Family Support Division		43 MoReg 2857R		
13 CSR 40-50.010	Family Support Division		43 MoReg 3089R		
13 CSR 40-73.010	Family Support Division (<i>Changed to 13 CSR 35-73.010</i>)		43 MoReg 2979		
13 CSR 40-73.012	Family Support Division (<i>Changed to 13 CSR 35-73.012</i>)		43 MoReg 2857		
13 CSR 40-73.015	Family Support Division		43 MoReg 2857R		
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13 CSR 40-73.030	Family Support Division (<i>Changed to 13 CSR 35-73.030</i>)		43 MoReg 2858		
13 CSR 40-73.035	Family Support Division (<i>Changed to 13 CSR 35-73.035</i>)		43 MoReg 2979		
13 CSR 40-73.040	Family Support Division (<i>Changed to 13 CSR 35-73.040</i>)		43 MoReg 2980		
13 CSR 40-73.050	Family Support Division (<i>Changed to 13 CSR 35-73.050</i>)		43 MoReg 2980		
13 CSR 40-73.060	Family Support Division (<i>Changed to 13 CSR 35-73.060</i>)		43 MoReg 2981		
13 CSR 40-73.070	Family Support Division (<i>Changed to 13 CSR 35-73.070</i>)		43 MoReg 2981		
13 CSR 40-73.075	Family Support Division (<i>Changed to 13 CSR 35-73.075</i>)		43 MoReg 2981		
13 CSR 40-73.080	Family Support Division (<i>Changed to 13 CSR 35-73.080</i>)		43 MoReg 2982		
13 CSR 40-79.010	Family Support Division (<i>Changed to 13 CSR 10-3.040</i>)		43 MoReg 2553		
13 CSR 40-80.010	Family Support Division		43 MoReg 2555R		
13 CSR 40-91.010	Family Support Division		43 MoReg 3089		
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13 CSR 40-100.020	Family Support Division (<i>Changed from 13 CSR 30-7.010</i>)		43 MoReg 3075		
13 CSR 40-100.030	Family Support Division (<i>Changed from 13 CSR 30-8.010</i>)		43 MoReg 2855		
13 CSR 40-102.010	Family Support Division (<i>Changed from 13 CSR 30-5.010</i>)		43 MoReg 2853		
13 CSR 40-104.010	Family Support Division (<i>Changed from 13 CSR 30-4.020</i>)		43 MoReg 2648		
13 CSR 40-104.020	Family Support Division (<i>Changed from 13 CSR 30-6.010</i>)		43 MoReg 3074		
13 CSR 40-106.010	Family Support Division (<i>Changed from 13 CSR 30-5.020</i>)		43 MoReg 3072		
13 CSR 40-108.020	Family Support Division (<i>Changed from 13 CSR 40-3.020</i>)		43 MoReg 2653		
13 CSR 40-108.030	Family Support Division (<i>Changed from 13 CSR 30-9.010</i>)		43 MoReg 2650		
13 CSR 40-108.040	Family Support Division (<i>Changed from 13 CSR 30-2.010</i>)		43 MoReg 2645		
13 CSR 40-110.040	Family Support Division (<i>Changed from 13 CSR 30-10.010</i>)		43 MoReg 2651		
13 CSR 45-2.010	Division of Legal Services (<i>Changed to 13 CSR 5-2.010</i>)		43 MoReg 2654		
13 CSR 65-3.010	Missouri Medicaid Audit and Compliance		43 MoReg 2555		
13 CSR 65-3.060	Missouri Medicaid Audit and Compliance		43 MoReg 2858		
13 CSR 70-2.100	MO HealthNet Division		43 MoReg 2859		
13 CSR 70-3.100	MO HealthNet Division		43 MoReg 3092		
13 CSR 70-3.130	MO HealthNet Division		43 MoReg 2860R		
13 CSR 70-3.190	MO HealthNet Division		43 MoReg 1917R	43 MoReg 3866R	
13 CSR 70-3.230	MO HealthNet Division		43 MoReg 2860		
13 CSR 70-3.270	MO HealthNet Division		43 MoReg 2557		
13 CSR 70-3.300	MO HealthNet Division		43 MoReg 2658		
13 CSR 70-4.051	MO HealthNet Division		43 MoReg 3093		
13 CSR 70-4.070	MO HealthNet Division		43 MoReg 1918R	43 MoReg 3866R	
13 CSR 70-10.016	MO HealthNet Division		43 MoReg 3094		
13 CSR 70-10.070	MO HealthNet Division		43 MoReg 2866		
13 CSR 70-10.120	MO HealthNet Division		43 MoReg 2661		
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13 CSR 70-15.010	MO HealthNet Division	43 MoReg 1991	43 MoReg 2311	43 MoReg 3646	
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13 CSR 70-20.030	MO HealthNet Division		43 MoReg 2868		
13 CSR 70-20.031	MO HealthNet Division		43 MoReg 3099		
13 CSR 70-20.032	MO HealthNet Division		43 MoReg 1918R	43 MoReg 3866R	
13 CSR 70-20.034	MO HealthNet Division		43 MoReg 3099R		
13 CSR 70-20.040	MO HealthNet Division		43 MoReg 1918R	43 MoReg 3866R	
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13 CSR 110-3.020	Division of Youth Services		43 MoReg 2869R		
13 CSR 110-3.030	Division of Youth Services		43 MoReg 3505		
13 CSR 110-3.040	Division of Youth Services		43 MoReg 3106		
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15 CSR 30-130.030	Secretary of State	This Issue	This Issue		
15 CSR 30-130.040	Secretary of State	This Issue	This Issue		
15 CSR 30-130.050	Secretary of State	This Issue	This Issue		
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20 CSR 200-19.020	Insurance Solvency and Company Regulation		43 MoReg 3534		
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20 CSR 200-20.010	Insurance Solvency and Company Regulation		This Issue		
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20 CSR 200-20.050	Insurance Solvency and Company Regulation		This Issue		
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20 CSR 800-3.010	Administrative Procedures under the Insurance Laws		43 MoReg 3537		
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20 CSR 2015-1.030	Acupuncturist Advisory Committee		43 MoReg 1452	43 MoReg 3145	
20 CSR 2015-2.010	Acupuncturist Advisory Committee		43 MoReg 1455	43 MoReg 3145	
20 CSR 2015-2.020	Acupuncturist Advisory Committee		43 MoReg 1455	43 MoReg 3145W	
20 CSR 2015-3.010	Acupuncturist Advisory Committee		43 MoReg 1456	43 MoReg 3146	
20 CSR 2015-3.020	Acupuncturist Advisory Committee		43 MoReg 1456	43 MoReg 3146	
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20 CSR 2015-4.020	Acupuncturist Advisory Committee		43 MoReg 1458	43 MoReg 3146	
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20 CSR 2030-5.010	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Professional Landscape Architects		43 MoReg 1458	43 MoReg 3147	
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20 CSR 2040-2.021	Office of Athletics	43 MoReg 2772	43 MoReg 2883		
20 CSR 2070-3.010	State Board of Chiropractic Examiners		43 MoReg 3538R		
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20 CSR 2085-3.010	Board of Cosmetology and Barber Examiners	43 MoReg 3058	43 MoReg 3108		
20 CSR 2095-1.020	Committee for Professional Counselors		43 MoReg 3111		
20 CSR 2110-1.010	Missouri Dental Board		43 MoReg 2886		
20 CSR 2110-1.020	Missouri Dental Board		43 MoReg 2886		
20 CSR 2110-2.075	Missouri Dental Board		43 MoReg 3274		

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20 CSR 2110-2.170	Missouri Dental Board		43 MoReg 2887		
20 CSR 2110-2.250	Missouri Dental Board	43 MoReg 3759	43 MoReg 3811		
20 CSR 2110-4.020	Missouri Dental Board		43 MoReg 3277		
20 CSR 2150-3.080	State Board of Registration for the Healing Arts	43 MoReg 2459	43 MoReg 2469	43 MoReg 3646	
20 CSR 2150-3.170	State Board of Registration for the Healing Arts	43 MoReg 2459	43 MoReg 2472	43 MoReg 3646	
20 CSR 2150-3.300	State Board of Registration for the Healing Arts	43 MoReg 2460	43 MoReg 2475	43 MoReg 3647	
20 CSR 2150-5.025	State Board of Registration for the Healing Arts	43 MoReg 2773	43 MoReg 2890		
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20 CSR 2200-4.030	State Board of Nursing		43 MoReg 2327	43 MoReg 3299	
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20 CSR 2200-4.200	State Board of Nursing	This IssueT			
20 CSR 2200-7.010	State Board of Nursing		43 MoReg 3278		
20 CSR 2210-1.010	State Board of Optometry		43 MoReg 2892		
20 CSR 2210-1.020	State Board of Optometry		43 MoReg 2893		
20 CSR 2210-2.011	State Board of Optometry		43 MoReg 2893		
20 CSR 2210-2.020	State Board of Optometry		43 MoReg 3811		
20 CSR 2210-2.030	State Board of Optometry		43 MoReg 2893		
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20 CSR 2220-2.200	State Board of Pharmacy	43 MoReg 2776	43 MoReg 2896		
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20 CSR 2220-8.040	State Board of Pharmacy	This Issue	This Issue		
20 CSR 2220-8.045	State Board of Pharmacy	This Issue	This Issue		
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20 CSR 2220-8.060	State Board of Pharmacy		This Issue		
20 CSR 2231-3.010	Division of Professional Registration	43 MoReg 3760	43 MoReg 3814		
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20 CSR 2245-6.040	Real Estate Appraisers	43 MoReg 2642	43 MoReg 2665	This Issue	
20 CSR 2245-8.010	Real Estate Appraisers	43 MoReg 2643	43 MoReg 2666	This Issue	
20 CSR 2245-8.030	Real Estate Appraisers	43 MoReg 2643	43 MoReg 2666	This Issue	
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20 CSR 2270-1.031	Missouri Veterinary Medical Board		43 MoReg 2570	43 MoReg 3867	
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20 CSR 2270-4.011	Missouri Veterinary Medical Board		43 MoReg 2573	43 MoReg 3867	
20 CSR 2270-4.021	Missouri Veterinary Medical Board		43 MoReg 2573	43 MoReg 3868	
20 CSR 2270-4.031	Missouri Veterinary Medical Board		43 MoReg 2574	43 MoReg 3868	
20 CSR 2270-4.041	Missouri Veterinary Medical Board		43 MoReg 2574	43 MoReg 3868	
20 CSR 2270-4.042	Missouri Veterinary Medical Board		43 MoReg 2575	43 MoReg 3868	
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22 CSR 10-2.045	Health Care Plan	43 MoReg 3365	43 MoReg 3549		
22 CSR 10-2.046	Health Care Plan	43 MoReg 3366	43 MoReg 3550		
22 CSR 10-2.047	Health Care Plan	43 MoReg 3368	43 MoReg 3551		
22 CSR 10-2.051	Health Care Plan	43 MoReg 3370R	43 MoReg 3553R		
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22 CSR 10-2.053	Health Care Plan	43 MoReg 3370	43 MoReg 3553		
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22 CSR 10-2.060	Health Care Plan	43 MoReg 3381R	43 MoReg 3564R		
22 CSR 10-2.061	Health Care Plan	43 MoReg 3382	43 MoReg 3564		
22 CSR 10-2.075	Health Care Plan	43 MoReg 3383	43 MoReg 3566		
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22 CSR 10-3.010	Health Care Plan	43 MoReg 3391	43 MoReg 3579		
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22 CSR 10-3.057	Health Care Plan	43 MoReg 3398	43 MoReg 3584		
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22 CSR 10-3.059	Health Care Plan	43 MoReg 3409	43 MoReg 3595		
22 CSR 10-3.060	Health Care Plan	43 MoReg 3410R	43 MoReg 3597R		
22 CSR 10-3.061	Health Care Plan	43 MoReg 3411	43 MoReg 3597		
22 CSR 10-3.080	Health Care Plan	43 MoReg 3412	43 MoReg 3598		
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**4 CSR 80—Economic Development Programs is changing to Division of Economic Development Programs.*

**10 CSR 23—Division of Geology and Land Survey is changing to Well Installation.*

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1 CSR 20-1.010 General Organization43 MoReg 2735	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-1.020 Definitions43 MoReg 2736	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-1.040 Unclassified Service . . . . .	.43 MoReg 2740	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-1.045 Covered Service . . . . .	.43 MoReg 2741	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-2.010 The Classification Plan . . . . .	.43 MoReg 2742	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-2.015 Broad Classification Bands . . . . .	.43 MoReg 2744	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-2.020 The Pay Plan . . . . .	.43 MoReg 2747	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.010 Examinations . . . . .	.43 MoReg 2749	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.020 Registers . . . . .	.43 MoReg 2753	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.030 Certification and Appointment . . . . .	.43 MoReg 2754	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.040 Probationary Period . . . . .	.43 MoReg 2757	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.050 Service Reports . . . . .	.43 MoReg 2758	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.070 Separation, Suspension, and Demotion . . . . .	.43 MoReg 2759	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-3.080 General Provisions and Prohibitions . . . . .	.43 MoReg 2763	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-4.010 Appeals43 MoReg 2764	. . . Aug. 28, 2018	. . . Feb. 28, 2019
1 CSR 20-4.020 Grievance Procedures43 MoReg 2764	. . . Aug. 28, 2018	. . . Feb. 28, 2019
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1 CSR 40-1.050 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts43 MoReg 2967	. . . Sept. 15, 2018	. . . March. 13, 2019
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1 CSR 50-5.010 Definitions43 MoReg 1121	. . . Aug. 8, 2018	. . . Feb. 4, 2019
1 CSR 50-5.020 Registration Requirements for Committees Domiciled Outside the State of Missouri and Out-of-State Committees43 MoReg 1121	. . . Aug. 8, 2018	. . . Feb. 4, 2019
Department of Labor and Industrial Relations			
Division of Labor Standards			
8 CSR 30-3.010 Applicable Wage Rates for Public Works Projects . . . . .	.This Issue	. . . Dec. 01, 2018	. . . May 29, 2019
8 CSR 30-3.030 Apprentices and Entry-Level Workers . . . . .	.This Issue	. . . Dec. 01, 2018	. . . May 29, 2019
8 CSR 30-3.040 Classifications of Construction Work . . . . .	.This Issue	. . . Dec. 01, 2018	. . . May 29, 2019
8 CSR 30-3.050 Posting of Prevailing Wage Rates . . . . .	.This Issue	. . . Dec. 01, 2018	. . . May 29, 2019
8 CSR 30-3.060 Occupational Titles of Work DescriptionsThis Issue	. . . Dec. 01, 2018	. . . May 29, 2019
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11 CSR 70-2.240 Advertising of Intoxicating Liquor43 MoReg 3199	. . . Oct. 20, 2018	. . . April 17, 2019
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12 CSR 10-41.010 Annual Adjusted Rate of Interest43 MoReg 3347	. . . Jan. 1, 2019	. . . June 29, 2019
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13 CSR 10-4.010 Prohibition Against Expenditure of Appropriated Funds for Abortion Facilities43 MoReg 2455	. . . July 15, 2018	. . . Feb. 28, 2019
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13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology43 MoReg 1991	. . . July 1, 2018	. . . Feb. 28, 2019
13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)43 MoReg 1994	. . . July 1, 2018	. . . Feb. 28, 2019
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15 CSR 30-70.010 Definitions43 MoReg 2765	. . . Sept. 2, 2018	. . . Feb. 28, 2019
15 CSR 30-70.020 Application Assistant Training, Registration, and Renewal43 MoReg 2766	. . . Sept. 2, 2018	. . . Feb. 28, 2019
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15 CSR 30-70.090 Disclosure to Law Enforcement43 MoReg 2771	. . . Sept. 2, 2018	. . . Feb. 28, 2019
15 CSR 30-130.010 Definitions . . . . .	.This Issue	. . . Dec. 10, 2018	. . . June 7, 2019
15 CSR 30-130.020 Applications, Interim Operating Permits and FormsThis Issue	. . . Dec. 10, 2018	. . . June 7, 2019
15 CSR 30-130.030 FeesThis Issue	. . . Dec. 10, 2018	. . . June 7, 2019

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15 CSR 30-130.040 Approval of Assurance Organizations	.This Issue	Dec. 10, 2018	June. 7, 2019
15 CSR 30-130.050 Use of Assurance Organizations by Applicant	.This Issue	Dec. 10, 2018	June. 7, 2019
15 CSR 30-130.060 Proof of Positive Working Capital, Bonds and Letters	.This Issue	Dec. 10, 2018	June. 7, 2019
15 CSR 30-130.070 Disciplinary Actions	.This Issue	Dec. 10, 2018	June. 7, 2019
15 CSR 30-130.080 Request for Hearing	.This Issue	Dec. 10, 2018	June. 7, 2019
15 CSR 30-130.090 Hearings	.This Issue	Dec. 10, 2018	June. 7, 2019
15 CSR 30-130.100 Appeals	.This Issue	Dec. 10, 2018	June. 7, 2019

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19 CSR 10-10.130 Missouri Adoptee Rights	.43 MoReg 2967	Sept. 20, 2018	March 18, 2019
19 CSR 10-15.060 Prohibition on Expenditure of Funds	.43 MoReg 2456	July 15, 2018	Feb. 28, 2019
19 CSR 30-1.002 Schedules of Controlled Substances	.43 MoReg 3347	Nov. 04, 2018	May 2, 2019
19 CSR 30-1.023 Registration Changes	.43 MoReg 2970	Sept 27, 2018	March 25, 2019
19 CSR 30-1.064 Partial Filling of Controlled Substance Prescriptions	.43 MoReg 2971	Sept 27, 2018	March 25, 2019
19 CSR 30-1.078 Disposing of Unwanted Controlled Substances	.43 MoReg 2972	Sept 27, 2018	March 25, 2019
19 CSR 30-95.020 General Provisions	.Next Issue	Dec. 24, 2018	June 21, 2019

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20 CSR 2040-2.011 Licenses	.43 MoReg 2772	Sept. 7, 2018	March 5, 2019
20 CSR 2040-2.021 Permits	.43 MoReg 2772	Sept. 7, 2018	March 5, 2019

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20 CSR 2085-3.010 Fees	.43 MoReg 3058	Oct. 1, 2018	March. 29, 2019
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20 CSR 2110-2.250 Prescribing Opioids	.43 MoReg 3759	Nov. 17, 2018	May 15, 2019
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20 CSR 2150-3.080 Physical Therapists Licensure Fees	.43 MoReg 2459	July 13, 2018	Feb. 28, 2019
20 CSR 2150-3.170 Physical Therapist Assistant Licensure Fees	.43 MoReg 2459	July 13, 2018	Feb. 28, 2019
20 CSR 2150-3.300 Physical Therapy Compact Rules	.43 MoReg 2460	July 13, 2018	Feb. 28, 2019
20 CSR 2150-5.100 Collaborative Practice	.43 MoReg 977	April 26, 2018	Term. Nov. 20, 2019
20 CSR 2150-5.100 Collaborative Practice	.This Issue	Nov. 20, 2018	Term. Nov. 20, 2019
20 CSR 2150-5.025 Administration of Vaccines Per Protocol	.43 MoReg 2773	Sept. 30, 2018	March. 28, 2019

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20 CSR 2200-4.200 Collaborative Practice	.43 MoReg 977	April 26, 2018	Term. Nov. 20, 2019
20 CSR 2200-4.200 Collaborative Practice	.This Issue	Nov. 20, 2018	Term. Nov. 20, 2019

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20 CSR 2210-2.070 Fees	.43 MoReg 1257	May 21, 2018	Feb. 28, 2019
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20 CSR 2220-2.200 Sterile Compounding	.43 MoReg 2776	Aug. 30, 2018	Feb. 28, 2019
20 CSR 2220-4.010 General Fees	.This Issue	Dec. 8, 2018	June 5, 2019
20 CSR 2220-8.010 Definitions	.This Issue	Dec. 8, 2018	June 5, 2019
20 CSR 2220-8.020 Licensing Requirements	.This Issue	Dec. 8, 2018	June 5, 2019
20 CSR 2220-8.030 Nonresident Third-Party Logistics Providers/Drug Outsourcer Facilities	.This Issue	Dec. 8, 2018	June 5, 2019
20 CSR 2220-8.040 Standards of Operation (Drug Outsourcers)	.This Issue	Dec. 8, 2018	June 5, 2019
20 CSR 2220-8.045 Standards of Operation (Third-Party Logistics Providers)	.This Issue	Dec. 8, 2018	June 5, 2019

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20 CSR 2231-3.010 Fee Waiver for Military Families and Low-Income Individuals	.43 MoReg 3760	Nov. 17, 2018	May 15, 2019
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20 CSR 2232-1.040 Fees	.43 MoReg 3760	Nov. 17, 2018	May 15, 2019
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20 CSR 2245-1.010 General Organization	.43 MoReg 2639	Aug 17, 2018	Feb. 28, 2019
20 CSR 2245-3.005 Trainee Real Estate Appraiser Registration	.43 MoReg 2640	Aug 17, 2018	Feb. 28, 2019
20 CSR 2245-3.010 Applications for Certification and Licensure	.43 MoReg 2641	Aug 17, 2018	Feb. 28, 2019
20 CSR 2245-6.040 Case Study Courses	.43 MoReg 2642	Aug 17, 2018	Feb. 28, 2019
20 CSR 2245-8.010 Requirements	.43 MoReg 2643	Aug 17, 2018	Feb. 28, 2019
20 CSR 2245-8.030 Instructor Approval	.43 MoReg 2643	Aug 17, 2018	Feb. 28, 2019

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22 CSR 10-1.030 Board of Trustees Election Process	.43 MoReg 3354	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.010 Definitions	.43 MoReg 3356	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.020 General Membership Provisions	.43 MoReg 3357	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.030 Contributions	.43 MoReg 3362	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.045 Plan Utilization Review Policy	.43 MoReg 3365	Jan 1, 2019	June. 29, 2019

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22 CSR 10-2.046 PPO 750 Plan Benefit Provisions and Covered Charges43 MoReg 3366	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.047 PPO 1250 Plan Benefit Provisions and Covered Charges43 MoReg 3368	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.051 PPO 300 Plan Benefit Provisions and Covered Charges43 MoReg 3370	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.052 PPO 600 Plan Benefit Provisions and Covered Charges43 MoReg 3370	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.053 Health Savings Account Plan Benefit Provisions and Covered Charges43 MoReg 3370	Jan 1, 2019	June. 29, 2019
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22 CSR 10-2.061 Plan Limitations43 MoReg 3382	Jan 1, 2019	June. 29, 2019
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22 CSR 10-2.090 Pharmacy Benefit Summary43 MoReg 3386	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.110 General Foster Parent Membership Provisions43 MoReg 3389	Jan 1, 2019	June. 29, 2019
22 CSR 10-2.140 Strive for Wellness [®] Health Center Provisions, Charges, and Services43 MoReg 3390	Jan 1, 2019	June. 29, 2019
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22 CSR 10-3.059 PPO 1250 Plan Benefit Provisions and Covered Charges43 MoReg 3409	Jan 1, 2019	June. 29, 2019
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22 CSR 10-3.090 Pharmacy Benefit Summary43 MoReg 3413	Jan 1, 2019	June. 29, 2019

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Executive Orders	Subject Matter	Filed Date	Publication
<u>2018</u>			
18-11	Closes state offices December 24, 2018.	Nov. 30, 2018	43 MoReg 3761
18-10	Establishes that each executive branch adhere to the code of conduct regarding gifts from lobbyist	Nov. 20, 2018	This Issue
18-09	Closes state offices November 23, 2018.	Nov. 1, 2018	43 MoReg 3204
18-08	Establishes the Missouri Justice Reinvestment Executive Oversight Council.	Oct. 25, 2018	43 MoReg 3472
Proclamation	Governor temporarily reduces line items in the budget.	Oct. 31, 2018	43 MoReg 3416
18-07	Establishes the Bicentennial Commission.	Oct. 12, 2018	43 MoReg 3202
Proclamation	Calls upon the Senators and Representatives to enact legislation requiring the Department of Elementary and Secondary Education to establish a statewide program to be known as the "STEM Career Awareness Program."	Sept. 4, 2018	43 MoReg 2780
18-06	Designates those members of the governor's staff who have supervisory authority over each department, division, or agency of state government.	Aug. 21, 2018	43 MoReg 2778
18-05	Declares a drought alert for 47 Missouri counties and orders the director of the Department of Natural Resources to activate and designate a chairperson for the Drought Assessment Committee	July 18, 2018	43 MoReg 2539
18-04	Extends the deadline from Section 3d of Executive Order 17-03 through September 30, 2018.	June 29, 2018	43 MoReg 1996
18-03	Reauthorizes and restructures the Homeland Security Advisory Council.	April 25, 2018	43 MoReg 1123
18-02	Declares a State of Emergency and activates the state militia in response to severe weather that began on Feb. 23.	Feb. 24, 2018	43 MoReg 664
Proclamation	Governor notifies the General Assembly that he is reducing appropriation lines in the fiscal year 2018 budget.	Feb. 14, 2018	43 MoReg 519
18-01	Rescinds Executive Order 07-21.	Jan. 4, 2018	43 MoReg 251

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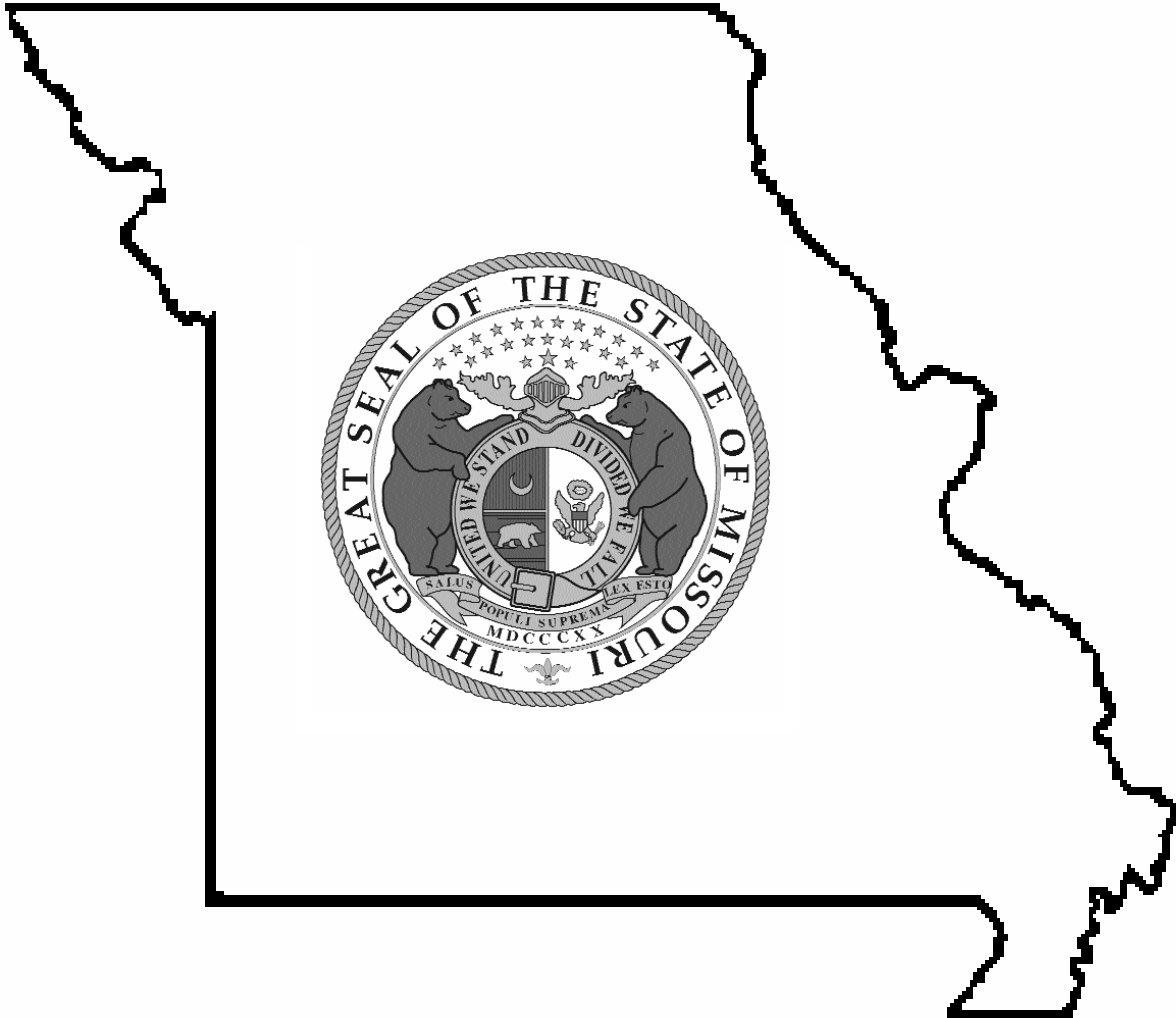
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